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ORIGINAL ILLUSTRATIONS OF ENGLISH CONSTITUTIONAL HISTORY

BY

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PREFACE

TEACHERS of Constitutional History have often asked for a single volume of selected documents suitable to the needs of the ordinary student. This book is an attempt to meet that demand. It was planned some years ago : but my transference from Oxford to Glasgow and the preoccupations of a busy life have stood in the way of an earlier publication. My desire has been to choose a few leading documents and certain groups of documents illustrating important subjects, to quote these, so far as space would permit, in their entirety, and to explain passages in them by reference to extracts from other authoritative sources.

Over such a vast field naturally the choice has been difficult. Many of the charters and statutes to be selected are sufficiently obvious ; but beyond these probably no two teachers of the subject would compile identical lists. In any selection of course it is omission that is culpable, and use of

PREFACE

One will prove whether and in what way one may have committed so capital a fault. The teachers will be agreed as to the convenience of having documents drawn from various sources closely related in subject, printed in the same type. I believe that the device of placing the running abstract immediately below the clause of text to which it explains, will also carry its own justification. It is further to be hoped that the use of two indexes—one to documents and one to subjects—will both facilitate and expedite the work of reference.

I have followed the example of Dr. Stubbs in selecting the French passages and adding a glossary of special words. Experience, however, has shown that young students need help with the Latin extracts, and I hope that the running abstract of contents at the side of the page may enable any one with a moderate knowledge of the language to handle the Latin without undue difficulty. There is an undoubted benefit even to the ordinary student to be derived from seeing the document in its original form.

The responsibility for the selection of passages lies with me alone. But I have profited both from the work and the personal help of my colleague Dr. W. S. McKechnie. He has saved me from frequent blunders and supplied the clue to many obscure passages.

If this book at all commends itself to teachers I shall be grateful for any suggestions which may increase its usefulness in future issues. It would be easy enough to make a larger volume; the object must be rather to arrive by experience at the necessary and irreducible minimum for successful work with a class.

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Original Illustrations of English Constitutional History

I

THE LAWS OF THE ANGLO- SAXONS

Excerpts from the Secular Laws of Cnut (1027-1034)

THIS then is the secular ordinance which, by the counsel of my witan, I will that it be observed over all England.

§ 1. That is then the first that I will ; that just laws be established, and every unjust law carefully suppressed, and that every injustice be weeded out and rooted up with all possible diligence from this country. And let God's justice be exalted ; and henceforth let every man, both poor and rich, be esteemed worthy of folk-right, and let just dooms be doomed to him.

Justice and equal treatment before the law enjoined.

§ 2. And we instruct that though any one sin and deeply foredo himself, let the correction be regulated so that it be becoming before God and tolerable before the world. And let him who has power of judgment

Moderate punishments enjoined, and death penalty only for serious offences.

very earnestly bear in mind what he himself desires, when he thus says : "Et dimitte nobis debita nostra sicut et nos dimittimus." And we command that Christian men be not, on any account, for altogether too little, condemned to death ; but rather let gentle punishments be decreed for the benefit of the people ; and let not be destroyed for little God's handywork and His own purchase which He dearly bought.

Sale of slaves
limited.

§ 3. And we command that Christian men be not too readily sold out of the land ; and especially be not brought into heathendom ; but let it be carefully guarded against that those souls be not made to perish which Christ bought with His own life.

False coiners to
be severely pun-
ished.

§ 8. Let all of us likewise very earnestly take into consideration *frith-bot* and *feos-bot* : so concerning *frith-bot*, as may be best for the proprietor and most hostile to the thieves : and so concerning *feos-bot*, that one money pass over all the nations without any counterfeit, and let no man that refuse ; and he who after this shall make false, let him forfeit the hands with which he wrought that false and not redeem them with anything, neither with gold nor with silver ; and if any one accuse the reeve, that he wrought that false by his leave, let him clear himself with a threefold *lād* : and if the *lād* then fail, let him have the same doom as he who wrought the false.

Regulation of
weights and
measures.

§ 9. And let weights and measures be carefully rectified, and every species of injustice henceforth abstained from.

§ 12. These are the rights which the King enjoys over all men in Wessex : that is, *mund-bryce* and *ham-socn*, *forstal* and *flymena-fyrmth* and *fyrdwite*, unless he will more amply honour any one and concede to him this worship.

Pleas of the Crown in Wessex.

§ 13. And whoever does a deed of outlawry, let the King have power of the *frith*. And if he have *bocland*, let that be forfeited into the King's hand, be he man of whatever man he may. And take notice whoever may feed or harbour the *flyma* shall pay five pounds to the King except he shall clear himself that he knew not of his being a *flyma*.

(Punishment of owner of bocland), cf. § 25, below.

§ 14. And in Mercia he enjoys all as is here before written, over all men.

In Mercia.

§ 15. And by Danish law he enjoys *fight-wites* and *fyrdwites* and *grith-bryce* and *ham-socn* unless he will honour any one more amply : and if any one keep or harbour a *frithless* man, let him make *bot* for it as the law formerly was. And he who shall henceforth set up unjust law or doom unjust doom, for hatred or bribery, let him be liable to the King in a hundred and twenty shillings, by English law, unless he dare to prove on oath that he knew not aught more just ; and let him ever forfeit his thaneship, unless he repurchase it of the King, and as he will allow him. And by Danish law, let him be guilty of *lah-slit*, unless he clear himself, that he knew no better. And he who denies just law and just doom, let him be liable unto him who

In Danelaw.

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is entitled to it: either to a King in cxx shillings, or to an earl in lx shillings, or to the hundred in xxx shillings; so with every of them if it so happen by English law: and he who by Danish law shall corrupt just law, let him pay *lah-slit*.

Leges Henrici § 10 (1)

Pleas of the Crown in England.

Haec sunt jura quae rex Angliae solus et super omnes homines habet in terra sua, commoda pacis et securitatis institutione retenta; infractio pacis regiae per manum vel breve datae; danegildum; placitum brevium vel preceptorum ejus contemptorum; de famulis suis ubicunque occisis vel injuriatis; infidelitas et proditio; quicunque despectus vel maliloquium de eo; castellatio trium scannorum; utlagaria; furtum morte impunitum; murdrum; falsaria monetae suae; incendium; hamsocna; forestel; fyrthinga; flemenfyrine; praemeditatus assultus; robaria; strethbreche; praesumptio terrae vel pecuniae regis; thesaurus inventus; naufragium; maris algarum; violentus concubitus; raptus; forestae; relevationes baronum suorum; qui in domo vel familia regis pugnabit; qui in hostico pacem fregerit; qui burgbotam, vel brigbotam, vel firdfare supersederit; qui excommunicatum vel utlagum habet et tenet; borchbreche; qui in bello campali vel navali fugerit; injustum judicium; defectus justitiae; praevericatio legis regiae.

Quadripartitus

Pleas of the Crown in Mercia and Wessex:

Haec sunt jura quae rex habet super omnes homines in Mircenis es Westsexa: mundbrece (id est infractionem pacis), hamsocnam (id est invasionem mansionis), forestal (id est prohibitionem itineris) et fyrdunga (id est expeditionem) nisi aliquem amplius honorare velit.

* * * * *

In the Danelaw.

In Denalaga habet rex fyhtwitan (id est forisfactum pugnae) [*Instituta Cnuti*: violationem monetae quod Angli vocant feohwite] et fyrdwite (id est forisfacturam expeditionis): grithbrece (id est infractionem pacis) et hamsocnam (id est invasionem mansionis) si non aliquem specialius honoraverit.

Regulation of appeals.

§ 17. And let no one apply to the King unless he may not be entitled to any justice

within a hundred ; and let the hundred gemot be applied to, under penalty of the wite, so as it right is to apply to it.

§ 18. And thrice a year let there be a burh gemot and twice a shire gemot, under penalty of the wite, as is right ; unless there be need oftener. And let there be present the bishop of the shire and the ealdorman ; and there let both expound as well the law of God as the secular law.

Holding of local courts.

Leges Henrici § 7

De generalibus placitis comitatum, quomodo vel quando fieri debeant.

(1) Sicut antiqua fuerat institutione formatum, salutari regis imperio, vix nuper est recordatione firmatum, generalia comitatum placita certis locis et vicibus et diffinito tempore, per singulas Angliæ provincias, convenire debere, nec ullis ultra fatigationibus agitari, nisi propria regis necessitas, vel commune regni commodum saepius adjiciat.

The local courts should be held at fixed times and places, only to be held at other times when the public good demands.

(2) Intersint autem episcopi, comites, vicedomini, vicarii, centenarii, aldermanni, praefecti, praepositi, barones, vavasoires, tungrevii et caeteri terrarum domini, diligenter intendentes, ne malorum impunitas, aut graviorum pravitas, vel judicium subversio, solita miseros laceratione conficiant.

The classes of persons who are to be present.

(3) Agantur itaque primo debita verae christianitatis jura ; secundo regis placita ; postremo causae singulorum dignis satisfactionibus expleantur ; et quoscunque scyresmot discordantes inveniet, vel amore congreget, vel sequestret judicio.

The order of the business.

(4) Debet autem scyresmot et burgemot bis, hundreta vel wapentagia duodecies in anno congregari, et sex diebus ante summoniri, nisi publicum commodum vel dominica regis necessitas terminum praeveniat.

The number of ordinary meetings of each local court.

(7) Si quis baronum regis vel aliorum comitatu secundum legem interfuerit, totam terram, quam illic in dominio suo habet, acquietare poterit. Eodem modo est, si dapifer ejus legitime fuerit. Si uterque necessario desit, praepositus et sacerdos et quatuor de melioribus

In the absence of the lawful representative a limited popular representation is allowed in the shire court.

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villae adsint pro omnibus qui nominatim [†]profi erunt ad placitum submoniti.

The same rules apply as to time, place, business, representation, in the hundred court.

The judges of the courts shall be freemen

(8) Idem in hundreto decrevimus observandum de locis et vicibus et iudicum observantiis, de causis singulorum justis ex minationibus audiendis, de domini et dapiferi, vel sacerdotis et praepositi et meliorum hominum praesentia.

§ 29 (1) Regis iudices sint barones comitatus qui liberas in eis terras habent, per quos debent causae singulorum alterna prosecutione tractari; villani vero vel cotseti, vel ferdingi, vel qui sunt vilēs vel inopes personae, non sunt inter legum iudices numerandi. . . .

Eadward, Council of Exeter, § 8

I will that each reeve have a gemot always once in four weeks; and so do that every man be worthy of folkright: and that every suit have an end and a term when it shall be brought forward. * If that any one disregard, let him make bot as we before ordained.

Æthelstan, Council of Exeter, § 1 (5)

And let there be named in every reeve's *manung* as many men as are known to be unlying that they may be for witness in every suit. And be the oaths of these unlying men, according to the worth of the property, without election.

Æthelred, Council of Wantage, § 3 (1)

. . . and that a gemot be held in every wapentake; and the xii senior thanes go out, and the reeve with them, and swear on the relic that is given to them in hand that they will accuse no innocent man, nor conceal any guilty one. . . .

Limitation of self-help.

§ 19. And let no man take any distress, either in the shire or out of the shire, before he has thrice demanded his right in the hundred. If at the third time he have no justice, then let him go at the fourth time to the shire gemot; and let the shire appoint him a fourth term. If that then fail, let him

take lea.e, eitner from hence or thence, that he may seize his own.

§ 20. And we will that every freeman be brought into a hundred and into a tithing, who wishes to be entitled to *lād* or to wer, in case any one shall slay him after he is xii years of age ; or let him not afterwards be entitled to any free rights, be he *heorth-faest*, be he follower. And that everyone be brought into a hundred and in borh ; and let the borh hold and lead him to every plea. Many a powerful man will, if he can and may, defend his man in whatever way it seems to him that he may the more easily defend him ; whether as a freeman or a *theow*. But we will not allow that injustice.

System of responsibility.

§ 21. And we will that every man above twelve years make oath that he will neither be a thief nor cognizant of theft.

§ 22. And let every true man who has not been *tiht-bysig*, and has failed neither in oath nor ordeal within his hundred, be entitled to a single *lād*. And for an untrue man, let a single oath be chosen in three hundreds, and a threefold oath as far as it belongs to the burh ; or let him go to the ordeal, and let a single *lād* be preceded by a single *for-ath*, and a threefold *lād* by a triple *for-ath*. And if a thane have a true man to take the *for-ath* for him, be it so. If he have not, let him begin his suit himself : and let no *fo.-ath* ever be remitted.

Ordeal in a case of first offence. Fore-oath always necessary.

Æthelstan, Council of Greatanleage, § 23

If any one gives *wed* for an ordeal, then let him come three days before to the mass-priest who is to hallow it ; and let him feed himself with bread and with water and salt and herbs, before he shall go to it ; and let him attend mass each of the three days and make an oblation and go to housel on the day that he shall go to the ordeal ; and then swear the oath that he is, according to folk-right, guiltless of the charge, before he goes to the ordeal. And if it be water, that he dive an ell and a half by the rope ; if it be iron ordeal, let it be three days before the hand be undone. And let every man begin his charge with a fore-oath, as we before ordained ; and be each of those fasting, on either hand, who may be there together, by God's command and the Archbishop's ; and let there not be on either side more men than xii. If the accused man be with a larger company than some twelve, then be the ordeal void unless they will go from him.

Æthelstan, Council of Exeter, § 2

And he who traces cattle into another's land, let him trace it out who owns that land, if he can ; if he cannot, let the tracing stand for the fore-oath, if he accuse anyone therein.

Warrantor to be
real.

§ 23. And let no man be entitled to any vouching to warranty, unless he have true witness whence that came to him which is attached with him ; and let the witness declare, by the favour of God and his lord, that he is a true witness for him, as he saw with his eyes and heard with his ears that he rightfully obtained it.

Witness to sales.

§ 24. And let no one buy anything above the value of four pence either living or lying, unless he have the true witness of four men, be it within a burh, be it up in the 'country. For if it then be attached, and he have no such witness, let there be no vouching to warranty ; but let his own

be rendered to the proprietor; and the *aeftter gild* and the *wite* to him who is entitled thereto. And if he have witness, as we have here before ordained, then let it be thrice vouched to warranty; at the fourth time let him keep possession of it or render it to him who owns it. And it seems right to us that no man should hold possession where there is witness and it can be known that it has been abstracted; and that no man ought to claim possession, at the earliest, before six months after it had been stolen.

Hlothaere and Eadric, § 16

If any Kentish man buy a chattel in Lundenwic, let him have two or three true men to witness or the King's wic-reeve. If it be afterwards claimed of the man in Kent, let him then vouch the man who sold it him to warranty, in the *wic* at the King's hall, if he know him and can bring him to the warranty; if he cannot do that, let him prove at the altar with one of his witnesses or with the King's wic-reeve, that he bought the chattel openly in the wic with his own property, and then let him be paid its worth; but if he cannot prove that by lawful averment, let him give it up and let the owner take possession of it.

Eadward, Ordinances, § 1

And I will that every man have his warrantor; and that no man buy out of port, but have the port reeve's witness or that of other unlying men whom one may believe. And if any one buy out of port, then let him incur the King's *oferhyrnes*, and let the warranty nevertheless go forward until it be known where it shall stop. Also we have ordained that he who should vouch to warranty should have unlying witness to the effect that he rightfully vouched it; or should bring forward an oath which he might believe who made the claim. So we have ordained the same respecting ownership; that he should adduce unlying

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witnesses thereof or bring forward the oath, if he could, of persons unchosen, by which the claimant should be bound. But if he could not, then should be named to him six men of the same neighbourhood where he was residing, and of the six let him get one or one ox or for that cattle which may be the worth of this, and afterwards let it increase according to the value of the property, if there ought to be more.

Eadgar, Council of Wightborðes-stanc

§ 3. This then is what I will : that every man be under both both within the burhs and without the burhs ; and let witness be appointed to every burh and to every hundred.

§ 4. To every burh let there be chosen XXXIII as witness.

§ 5. To small burhs and in every hundred XII, unless ye desire more.

§ 6. And let every man with their witness buy and sell every of the chattels that he may buy or sell, either in a burh or in a wapentake ; and let every of them, when he is first chosen as witness, give the oath that he never, neither for money, nor for love, nor for fear, will deny any of those things of which he was witness, nor declare any other thing in witness save that alone which he saw or heard ; and of such sworn men let there be at every bargain two or three as witness.

Defaulters at
gemot to be
sought out and
mulcted.

§ 25. And he who is *tiht-bysig* and untrue to the people and avoids the gemot thrice ; then let there be selected from the fourth gemot those who shall ride to him ; and let him still find a borh if he can ; but if he cannot, let them seize him as they can, whether alive or dead, and take all that he owns. And let the accuser be paid his *ceap-gild* ; and let the lord take possession of half, half the hundred. And if one or other either a kinsman or a stranger, refuse the riding ; let him pay to the King one hundred and twenty shillings.

Ætels'an, Council of Greatanleage, § 20

If any one, when summoned, fail to attend the gemot thrice, let him pay the King's *oferhyrnes*, and let it be announced seven days before the gemot is to be. But if he will not do right nor pay the *oferhyrnes*, then let all the chief men belonging to the burh ride to him and take all that he has and put him in borh. But if any one will not ride with his fellows, let him pay the King's *oferhyrnes*. And let it be announced at the gemot that the frith be kept toward all that the King wills to be within the frith, and theft be foregone by his life and by all that he has. And he who for the *wites* will not desist, then let all the chief men belonging to the burh ride to him and take all that he has; and let the King take possession of half, of half the men who may be in the riding, and place him in borh. If he know not who will be his borh, let them imprison him. If he will not suffer it, let him be killed, unless he escape. If any one will avenge him or be at feud with any of them, then be he foe to the King and to all his friends. If he escape and any one harbour him, let him be liable in his *wer*; unless he shall dare to clear himself by the *flyma's wer* that he knew not he was a *flyma*.

§ 28. And that no one receive any man longer than three nights, unless he whom he before followed shall recommend him; and let no one dismiss his man before he be clear of every suit to which he had been previously cited.

Harbouring of strangers.

§ 29. And if any one find a thief and voluntarily let him escape without hue and cry, let him make *bot* with the thief's *wer* or clear himself with a full oath, that he knew of no guilt in him. And if any one hear the hue and cry, and disregard it, let him pay the King's *oferhyrnes* or fully clear himself.

Pursuit of thieves.

§ 30. And if any man be so untrue to the hundred and so *tiht-bysig*, and three men together then accuse him, let there be no

Judicial procedure in the case of suspects.

other course but that he go to the threefold ordeal. But if the lord say that neither oath nor ordeal had failed him since the gemot was at Winchester, let the lord take to him two true men within the hundred and swear that never oath or ordeal had failed him, nor had he paid *theof-gyld*, unless he have the reeve who is competent to do that. If then the oath succeed, let the man who is accused choose whichever he will; either a single ordeal or a pound-worth oath, within the three hundreds, for above xxx pence. And if they dare not take the oath, let him go to the triple ordeal; and let the triple ordeal be commenced thus: let him take five and be himself the sixth; and if he then be foul, at the first time let him make *bot* to the accuser twofold; and to the lord who is entitled to his *wite*, with his *wer*; and let him appoint true *borhs*, that he will hereafter abstain from every evil. And at the second time let there be no other *bot*, if he be foul, than that his hands be cut off, or his feet, or both, according as the deed may be. And if he then have wrought yet greater wrong, then let his eyes be put out, and his nose and his ears, and the upper lip be cut off; or let him be scalped; whatever of these then those shall counsel whose duty it is to counsel thereupon; so that punishment be inflicted, and also the soul preserved. But if he run away and avoid the ordeal, let the *borh* pay to the accuser his *ceap-gyld* and to the King his *wer*; or to him who

is entitled to his *wite*. And if any one accuse the lord, that he ran away by his counsel, and had previously acted unlawfully; let him take to him five true men and be himself the sixth, and clear himself thereof. If the purgation succeed, let him be entitled to the *wer*; and if it do not succeed, let the King take the *wer*, and let the thief be an outlaw to all people.

Æthelred, Council of Woodstock, § 1

. . . that every freeman have a true *borh*, that the *borl* may present him to every justice if he should be accused. But if he be *tyht-bysig*, let him go to the three-fold ordeal. If his lord say that he has failed neither in oath nor ordeal since the gemot was at Bromdun (&c., *ut supra*). . . . At the second time let there be no other *bot* than the head. But if he run away (&c., *ut supra*).

§ 31. And let every man have his household in his own *borh*; and if any one accuse his man of anything, let him answer within the hundred wherein he is cited, as just law is. And if he be accused and he run away, let the lord pay the man's *wer* to the King. And if any one accuse the lord, that he ran away by his counsel, let him clear himself with five thanes and be himself the sixth. If the purgation fail him, let him pay to the King his *wer* and let the man be an outlaw.

Lord's responsibility for his household.

Æthelstan, Council of Greatanleage, § 2

And we have ordained respecting those lordless men of whom no law can be got, that the kindred be commanded that they domicile him to folk-right and find him a lord in the folk-mote; and if they then will not or

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cannot produce him at the term, then 'ne he thenceforth a *flyma*, and let him slay him for a thief who can come at him : and whoever after that shall harbour him, let him pay for him according to his *wer* or by it clear himself.

Eadgar, Council of Andover, § 6

And let every man so order that he have a *borh*, and let the *borh* then bring and hold him to every justice ; and if any one then do wrong and run away, let the *borh* bear that which he ought to bear. But if it be a thief and he can get hold of him within twelve months, let him deliver him up to justice and let be rendered unto him what he before had paid.

Police treatment
of suspects.

§ 33. And if there be any man who is untrue to all the people, let the King's reeve go and bring him under *borh*, that he may be led to justice to those who accuse him. But if he have no *borh*, let him be slain and be laid in the *ful*. And if anyone stand up for him let them both be worthy of one law. And whoever neglects this and will not further it, as is the decree of us all, let him pay to the King one hundred and twenty shillings.

Police treatment
of stray persons.

§ 35. And if a friendless man or a comer from afar be so distressed, through want of friends, that he has no *borh* at the *frum tihle* ; let him then submit to prison and there abide until he go to God's ordeal, and there let him fare as he may. Verily he who dooms a worse doom to the friendless and the comer from afar than to his fellow, injures himself.

Punishment of a
perjurer.

§ 36. And if any one swear a false oath on a relic, and he be convicted, let him forfeit his hands or half his *wer* ; and let that be common to lord and bishop. And

let him not be thenceforth *oath-worthy*; unless he the more thoroughly before God make *bot* and find him *borh* that he will ever after abstain from the like.

§ 37. And if any one stand openly in false witness, and he be convicted; let not his witness afterwards stand for aught, but let him pay to the King or to the *land-rica*, according to his *heals-fang*.

Punishment of a false witness.

§ 58. If anyone plot against the King or his lord, let him be liable in his life and in all that he owns, except he go to the three-fold ordeal.

Punishment of treason against King or lord.

Ælfred, § 4

If anyone plot against the King's life of him self or by harbouring of exiles or of his men, let him be liable in his life and in all that he has. If he desire to prove himself true, let him do so according to the King's *wergild*. So also we ordain for all degrees whether ceorl or eorl; He who plots against his lord's life, let him be liable in his life to him and in all that he has; or let him prove himself true according to his lord's *wer*.

Leges Henrici, § 75 (1)

Si quis dominum suum occidat, si capiatur, nullo modo redimat, sed de comatione vel excoriatione, severa gentium animadversione, dampnetur, ut diris tormentorum cruciatibus et malae mortis infortuniis infelicem prius animam exhalasse, quam finem doloribus excepisse videatur; et, si posset fieri, remissionis amplius apud inferos invenisse, quam in terra reliquisse protestetur; in omnibus enim humanae pravitatis excessibus, medicinae salutaris fomenta prolata sunt, praeter traditionem Domini et blasphemiam Spiritus Sancti, *i.e.*, habere cor impenitens, quod, juxta verbum Domini, non remittetur alicui, vel in hoc seculo vel in futuro.

The severe punishment to be meted out to one who has slain his lord, and the reason for such severity.

§ 59. If anyone break the King's *bo. h*, let him make *bot* for it with five pounds. If anyone break an archbishop's or an athe-

Violation of *borh*.

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ling's *borh*, let him make *bot* for it with three pounds. If anyone break a suffragan bishop's or an ealdorman's *borh*, let him make *bot* for it with two pounds.

Crimes that cannot be atoned for.

§ 65. House-breaking and arson and open theft and open *morh* and treason against a lord are, by the secular law, *botless*.

Leges Henrici, § 12 (1)

Crimes that cannot be atoned for.

Ex hiis placitis quaedam emendantur C. solidis, quaedam wera, quaedam wita, quaedam non possunt emendari, quae sunt; husbreche et bernet et open-thrifthe et eberemor'h et hlafordswike et infractio pacis ecclesiae vel manus regis per homicidium.

Tinoda Necessitas.

§ 66. If anyone neglect *burh-bot* or *bricg-bot* or *fyrð-fare*; let him make *bot* with one hundred and twenty shillings to the King by English law, and by Danish law as it formerly stood; or let him clear himself; let xiv be named to him and let him choose xi. To *church-bot* all men must lawfully give assistance.

Inc, § 51

If a gesithcundman owning land neglect the fyrð, let him pay cxx shillings and forfeit his land; one not owning land lx shillings; a ceorlish man xxx shillings, as fyrð-wite.

Æthelred V, § 28

And if any one without leave return from the fyrð in which the King himself is, let it be at peril of himself and all his estate; and he who else returns from the fyrð, let him be liable in cxx shillings.

‘ *Domesday—Customs of Oxfordshire*

Qui monitus ire in expeditionem non vadit, C. solidos regi dabit.

Æthelstan, Council of Greatanlcege, § 13

And we ordain that every burh be repaired xiv days over Rogation Days.

§ 70. This then is the alleviation which it is my will to secure to all the people of that which they before this were too much oppressed with. That then is first: that I command all my reeves that they justly provide on my own, and maintain me therewith; and that no man need give them anything as *feorm-fultum*, unless he himself be willing. And if anyone after that demand a *wite*, let him be liable in his *wer* to the King.

Oppression of King's reeves checked.

§ 71. And if anyone depart this life intestate, be it through his neglect, be it through sudden death; then let not the lord draw more from his property than his lawful heriot. And, according to his direction, let the property be distributed very justly to the wife and children and relations; to every one according to the degree that belongs to him.

Succession to property secured to family.

§ 72. And let the heriots be as it is fitting to the degree. An eorl's such as thereto belongs, that is: eight horses, four saddled and four unsaddled, and four helmets, and four coats of mail, and eight spears, and as many shields, and four swords and two hundred mancuses of gold. And after that a King's than's, of those who are nearest to him: four horses, two saddled and two unsaddled, and two swords and four spears and as many shields and a helmet and a coat of mail and fifty mancuses of gold.

Amount paid to lord as heriot by each class liable for the payment.

And of the medial thanes a horse and his trappings and his arms ; or his *healsfang* in Wessex ; and in Mercia two pounds ; and in East Anglia two pounds. And the heriot of a King's thane among the Danes, who has his *socen*, four pounds. And if he have further relation to the King : two horses, one saddled and the other unsaddled, and one sword and two spears and two shields and fifty mancuses of gold ; and he who is of less means, two pounds.

Hunting rights
secured.

§ 81. And I will that every man be entitled to his hunting, in wood and in field, on his own possession. And let everyone forego my hunting ; take notice where I will have it untrespassed on, under penalty of the full *wite*.

Road to gemot
safeguarded.

§ 83. And I will that every man be entitled to *grith* to the gemot and from the gemot : except he be a notorious thief.

II

CHARTERS OF LIBERTY

The Coronation Charter of Henry I. (1100)

ANNO Incarnationis Dominicae, M.C.I.
Henricus filius Willelmi regis, post
obitum fratris sui Willelmi Dei gratia rex
Anglorum, omnibus fidelibus salutem.

I. Sciatis me Dei misericordia et com-
muni consilio baronum regni Angliae
ejusdem regni regem coronatum esse ; et
quia regnum oppressum erat injustis ex-
actionibus, ego, Dei respectu et amore quem
erga vos omnes habeo, sanctam Dei ecclesiam
imprimis liberam facio, ita quod nec vendam
nec ad firmam ponam, nec mortuo archie-
piscopo sive episcopo sive abbate aliquid
accipiam de dominico ecclesiae vel de
hominibus ejus donec successor in eam
ingrediatur. Et omnes malas consuetudines
quibus regnum Angliae injuste opprimebatur
inde aufero ; quas malas consuetudines ex
parte hic pono :

Grant to the
Church of free-
dom from exac-
tions.

The following
evil customs
abolished.

Exaction of unjust relief.

2. Si quis baronum meorum, comitum sive aliorum qui de me tenent, mortuus fuerit, haeres suus non redimet terram suam sicut faciebat tempore fratris mei, sed justa et legitima relevatione relevabit eam. Similiter et homines baronum meorum justa et legitima relevatione relevabunt terras suas de dominis suis.

Oppressive use of right of marriage.

3. Et si quis baronum vel aliorum hominum meorum filiam suam nuptum tradere voluerit, sive sororem, sive neptim, sive cognatam, mecum inde loquatur; sed neque ego aliquid de suo pro hac licentia accipiam neque defendam ei quin eam det, excepto si eam vellet jungere inimico meo. Et si, mortuo barone sive alio homine meo, filia haeres remanserit, illam dabo consilio baronum meorum cum terra sua. Et si, mortuo marito, uxor ejus remanserit et sine liberis fuerit, dotem suam et maritacionem habebit; et eam non dabo marito, nisi secundum velle suum.

and right of wardship.

4. Si vero uxor cum liberis remanserit, dotem quidem et maritacionem suam habebit dum corpus suum legitime servaverit, et eam non dabo nisi secundum velle suum. Et terrae et liberorum custos erit sive uxor sive alius propinquorum qui justius esse debet. Et praecipio quod barones mei similiter se contineant erga filios et filias vel uxores hominum suorum.

Unlawful dealings with coinage.

5. Monetagium commune quod capiebatur per civitates et comitatus quod non fuit tempore regis Edwardi, hoc ne amodo fiat omnino defendo. Si quis captus fuerit

sive monetarius sive alius cum falsa moneta, justitia recta inde fiat.

6. Omnia placita et omnia debita quae fratri meo debebantur condono, exceptis rectis firmis meis, et exceptis illis quae pacta erant pro aliorum haereditatibus, vel pro eis rebus quae justius aliis contingebant. Et si quis pro haereditate sua aliquid pepigerat, illud condono, et omnes relevationes quae pro rectis haereditatibus pactae fuerant.

Unlawful exactions of various kinds.

7. Et si quis baronum vel hominum meorum infirmabitur, sicut ipse dabit vel dare disponet pecuniam suam, ita datam esse concedo. Quod si ipse, praeventus vel armis vel infirmitate, pecuniam suam non dederit nec dare disposuerit, uxor sua sive liberi aut parentes aut legitimi homines ejus, eam pro anima ejus dividant, sicut eis melius visum fuerit.

Interference with disposition of baron's money.

8. Si quis baronum vel hominum meorum forisfecerit, non dabit vadium in misericordia pecuniae suae, sicut faciebat tempore patris mei vel fratris mei, sed secundum modum forisfacti, ita emendabit sicut emendasset retro a tempore patris mei, in tempore aliorum antecessorum meorum. Quod si perfidiae vel sceleris convictus fuerit, sicut justum fuerit, sic emendet.

Ball to be in accordance with the measure of the offence.

9. Murdra etiam retro ab illa die qua in regem coronatus fui omnia condono : et ea quae amodo facta fuerint, juste emendentur secundum lagam regis Edwardi.

Pardon for past murders: punishment of future murders.

10. Forestas communi consensu baronum meorum in manu mea retinui, sicut pater meus eas habuit.

Forests.

Knight's demes-
nes freed from
payments and
services.

11. Militibus qui per loricas terras suas deservunt, terras dominicarum carrucarum suarum quietas ab omnibus gildis et ab omni opere, proprio dono meo concedo, ut sicut tam magno gravamine alleviati sunt, ita equis et armis se bene instruant ut apti et parati sint ad servitium meum et ad defensionem regni mei.

Peace enjoined.

12. Pacem firmam in toto regno meo pono et teneri amodo praecepio.

Edward's law
with William I.'s
changes

13. Lagam Edwardi regis vobis reddo cum illis emendationibus quibus pater meus eam emendavit. consilio baronum suorum.

Restoration to
be made to the
King.

14. Si quis aliquid de meo vel de rebus alicujus post obitum Willelmi regis fratris mei cepit, totum cito sine emendatione reddatur; et si quis inde aliquid retinuerit, ille super quem inventum fuerit mihi graviter emendabit. Testibus, etc. Apud Westmonasterium quando coronatus fui.

The Second Charter of Stephen (1136)

Carta Stephani Regis de libertatibus Ecclesiae Anglicanae et regni.

Freedom of the
Church granted.

Ego Stephanus Dei gratia, assensu cleri et populi in regem Anglorum electus, et a Willelmo Cantuariensi archiepiscopo et sanctae Romanae ecclesiae legato consecratus, et ab Innocentio sanctae Romanae sedis pontifice confirmatus, respectu et amore

Dei sanctam ecclesiam liberam esse concedo et debitam reverentiam illi confirmo.

Nihil me in ecclesia vel rebus ecclesiasticis simoniace acturum vel permissurum esse promitto. Ecclesiasticarum personarum et omnium clericorum et rerum eorum justitiam et potestatem et distributionem bonorum ecclesiasticorum in manu episcoporum esse perhibeo et confirmo. Dignitates ecclesiarum privilegiis earum confirmatas, et consuetudines earum antiquo tenore habitas, inviolate manere statuo et concedo. Omnes ecclesiarum possessiones et tenuras quas die illa habuerunt qua Willelmus rex avus meus fuit vivus et mortuus, sine omni calumniantium reclamazione, eis liberas et absolutas esse concedo. Si quid vero de habitis vel possessis ante mortem ejusdem regis, quibus modo careat ecclesia, deinceps repetierit, indulgentiae et dispensationi meae, vel restituendi vel discutiendi, reservo. Quaecunque vero post mortem ipsius regis liberalitate regum vel largitione principum, oblatione vel comparatione, vel qualibet transmutatione fidelium eis collata sunt, confirmo. Pacem et justitiam me in omnibus facturum, et pro posse meo conservaturum eis promitto.

Forestas quas Willelmus avus meus et Willelmus avunculus meus instituerunt et habuerunt, mihi reservo. Ceteras omnes quas rex Henricus superaddidit ecclesiis et regno quietas reddo et concedo.

Si quis episcopus vel abbas vel alia ecclesiastica persona ante mortem suam rationaliter sua distribuerit vel distribuenda

Simony forbidden.

Bishops to have power over ecclesiastica persons and possessions.

Church possessions at William I's death and gifts made since are confirmed.

Peace and justice promised.

Forests of William I. and II. kept, those of Henry I. surrendered.

Disposition of bishops' goods not interfered with by the King.

The King will
not appropriate
possessions of
vacant seqs.

Exactions for-
bidden.

Good laws and
customs to be
kept.

statuerit, firmum manere concedo. * Si vero morte praeoccupatus fuerit, pro salute animae ejus, ecclesiae consilio, eadem fiat distributio. Dum vero sedes propriis pastoribus vacuae fuerint, ipsas et earum possessiones omnes in manu et custodia clericorum vel proborum hominum ejusdem ecclesiae committam, donec pastor canonice substituat.

Omnes exactiones et injustitias et mescheningas, sive per vicecomites vel per alios quoslibet male inductas, funditus exstirpo.

* Bonas leges et antiquas et justas consuetudines, in murdris et placitis et aliis causis, observabo, et observari praecipio et constituo. Haec omnia concedo et confirmo salva regia et justa dignitate mea.

Testibus, etc. Apud Oxeneforde, anno ab Incarnatione Domini M.C.XXXVI., sed regni mei primo.

Magna Carta (1215)

(The clauses marked with an asterisk are those which were omitted in subsequent reissues.)

Johannes Dei gratia rex Angliae, dominus Hyberniae, dux Normanniae et Aquitanniae, comes Andegaviae, archiepiscopis, episcopis, abbatibus, comitibus, baronibus, justiciariis, forestariis, vicecomitibus, praepositis, ministris, et omnibus ballivis et fidelibus suis salutem.

Sciatis nos intuitu Dei et pro salute

annuæ nostræ ad omnium antecessorum et hæredum nostrorum, ad honorem Dei et exaltationem sanctæ ecclesiæ, et emendationem regni nostri, per consilium venerabilium patrum nostrorum (the Archbishops of Canterbury and Dublin, seven bishops); magistri Pandulfi domini papæ subdiaconi et familiaris (the Master of the Temple, four earls, twelve other nobles and royal officials) et aliorum fidelium nostrorum :

Statement of the motives for the issue of the Charter and of the names of the Councillors

Charter of 1217.

Henricus Dei gratia — et fidelibus suis præsentem cartam inspecturis, salutem. Sciatis quod intuitu Dei — et successorum nostrorum, ad exaltationem sanctæ ecclesiæ et emendationem regni nostri, concessimus et hac præsentī cartā confirmavimus pro nobis et hæredibus nostris in perpetuum, de consilio venerabilis patris nostri domini Gualonis tituli Sancti Martini presbiteri cardinalis et apostolicæ sedis legati, domini Walteri Eboracensis archiepiscopi, Willelmi Lundoniensis episcopi, et aliorum episcoporum Angliæ et Willelmi Mariscalli comitis Pembrokiæ rectoris nostri et regni nostri, et aliorum fidelium comitum et baronum nostrorum Angliæ, has libertates subscriptas tenendas in regno nostro Angliæ in perpetuum :

Charter of 1225

Henricus Dei gratia — et emendationem regni nostri, spontanea et bona voluntate nostra dedimus et concessimus archiepiscopis, etc., et omnibus de regno nostro has libertates — in perpetuum :

i. In primis¹ concessisse Deo et hac præsentī cartā nostrā confirmasse, pro nobis et hæredibus nostris in perpetuum, quod Anglicana ecclesia libera sit² et habeat jura sua integra et libertates suas illesas; et ita volumus observari; quod apparet ex quo

Confirmation of her liberties to the Church, especially of the freedom of election already granted.

quod libertatem electionum, quæ maxima et magis necessaria reputatur ecclesie Anglicanæ, mera et spontanea voluntate, ante discordiam inter nos et barones nostros motam, concessimus et carta nostra³ confirmavimus, et eam optinuimus a domino papa Innocentio tertio confirmari; quam et nos observabimus et ab hæredibus nostris in perpetuum bona fide volumus observari. Concessimus etiam omnibus liberis hominibus regni nostri, pro nobis et hæredibus nostris in perpetuum, omnes libertates subscriptas, habendas et tenendas, eis et hæredibus suis, de nobis et hæredibus nostris.

Grant also to all freemen of the following liberties—

¹ *Charter of 1216*

In primis—illesas. Concessimus etiam omnibus liberis, etc.

² *Coronation Charter of Henry I. § 1 (p. 19)*

Second Charter of Stephen (p. 22)

Ego Stephanus—debitam reverentiam illi confirmo.

Coronation Charter of Henry II

Church, barons, and people to have their rights as granted by Henry I.

. . . volo et firmiter præcipio quod sancta ecclesia et omnes comites et barones et omnes mei homines, omnes illas consuetudines et donationes et libertates et liberas consuetudines habeant et teneant, libere et quiete, bene et in pace et integre, de me et hæredibus meis, sibi et hæredibus suis, adeo libere et quiete et plenarie in omnibus sicut Rex Henricus avus meus eis dedit et concessit et carta sua confirmavit.

³ *Carta Johannis regis ut liberæ sint electiones totius Angliæ (1214)*

. . . volumus . . . toti ecclesie Anglicanæ salubriter et æquabiliter in perpetuum providere : inde est quod qualiscunque consuetudo temporibus nostris et prædecessorum nostrorum hactenus in ecclesia Anglicana fuerit observata, et quicquid juris nostris hactenus vendicaverimus

in electionibus quorumcunque praelatorum, nos ad petitionem ipsorum pro salute animae nostrae et praedecessorum ac successorum nostrorum regum Angliae, liberaliter mera et spontanea voluntate, de communi consensu baronum nostrorum, concessimus et constituimus et hac praesenti carta nostra confirmavimus, ut de cetero in universis et singulis ecclesiis et monasteriis cathedralibus et conventualibus totius regni nostri Angliae, liberae sint in perpetuum electiones quorumcunque praelatorum majorum et minorum ; salva nobis et haeredibus nostris custodia ecclesiarum et monasteriorum vacantium quae ad nos pertinent. Promittimus etiam quod nec impediemus nec impediri permittemus per nostros nec procurabimus, quin in singulis et universis ecclesiis et monasteriis memoratis, postquam vocaverint praelaturae, quandocunque voluerint, libere sibi praeficiant electores pastorem ; petita tamen prius a nobis et haeredibus nostris licentia eligendi, quam non denegabimus, nec differemus. . . .

The free election of cathedral and conventual prelates is granted to churches and monasteries, with reservation of vacant royal churches and on condition that the King's leave is first asked.

2. Si quis comitum vel baronum nostrorum sive aliorum tenentium de nobis in capite per servitium militare, mortuus fuerit, et cum decesserit haeres suus plenae aetatis fuerit et relevium debeat, habeat haereditatem suam per antiquum relevium ; scilicet haeres vel haeredes comitis de baronia comitis integra per centum libras ; haeres vel haeredes baronis de baronia integra per centum libras ; haeres vel haeredes militis de feodo militis integro per centum solidos ad plus ; et qui minus debuerit minus det secundum antiquam consuetudinem feodorum.

The ancient relief to be paid by the heir of a tenant-in-chief of the Crown is fixed.

Secular Laws of Cnut, §§ 70, 71 (p. 17)

Domesday Book, i. 56 (*Berkshire*)

Tainus vel miles regis dominicus moriens pro relevamento dimittebat regi omnia arma sua et equum unum cum sella, alium sine sella.

The relief of King's thegn.

*Coronation Charter of Henry I. § 2¹ (p. 20)**Glanvill, De Legibus Angliæ, ix. 4, 8*

The amount of the relief for a knight's fee or a socage tenant fixed by custom; no fixed relief for tenant-in-chief or serjeant.

§ 4. Dicitur autem rationabile relevium alicujus, juxta consuetudinem regni de feodo unius militis, centum solidi; de socagio vero quantum valet census illius socagii per unum annum; de baroniis vero nihil certum statutum est, quia juxta voluntatem et misericordiam domini regis solent baroniae capitales de releviis suis domino regi satisfacere. Idem est de serjanteriis.

§ 8. Postquam vero convenerit inter dominum et haeredem tenentis sui de rationabili relevio dando et recipiendo, poterit idem haeres rationabilia auxilia de hominibus suis inde exigere; ita tamen moderate secundum quantitatem feodorum suorum, et secundum facultates, ne minis gravari inde videantur vel suum contementum amittere. Nihil autem certum statutum est de hujusmodi auxiliis dandis vel exigendis nisi ut praedicta forma inviolabiliter observetur.

Bracton, De Legibus et Consuetudinibus Angliæ, fol. 84

A fixed amount of relief for an earl and a baron.

Quale sit rationabile relevium antiquum de feodo militari, distinguitur in charta liberatum, cap. 2: scilicet de comitatu integro dandae sunt centum librae de haerede comitis pro relevio; et de haerede baronis, pro baronia integra, centum marcae.

No relief where wardship has been enjoyed.

3. Si autem haeres alicujus talium fuerit infra aetatem et fuerit in custodia, cum ad aetatem pervenerit, habeat haereditatem suam sine relevio et sine fine.

Charter of 1216

No wardship to be enjoyed until the heir has done homage: wardship to last until the heir comes of age even though he may be knighted.

Si autem — infra aetatem, dominus ejus non habeat custodiam ejus nec terrae suae,¹ antequam homagium ejus ceperit; ² et postquam talis haeres fuerit in custodia, cum ad aetatem pervenerit, scilicet viginti unius anni,

• ¹ *Coronation Charter of Henry I. § 4 (p. 20)*

² *Assize of Northampton, § 4 (p. 90)*

Et si haeres fuerit infra aetatem — quamdiu debuerit.

habeat haereditatem suam sine relevio ³ et sine fine, ita tamen quod si ipse dum infra aetatem fuerit, fiat miles, nihilominus terra remaneat in custodia domini sui usque ad terminum praedictum.

4. Custos terrae hujusmodi haeredis qui infra aetatem fuerit, non capiat de terra haeredis nisi rationabiles exitus, et rationabiles consuetudines, et rationabilia servitia, et hoc sine destructione et vasto hominum vel rerum; et si nos commiserimus custodiam alicujus talis terrae vicecomite vel alicui alii qui de exitibus illius nobis respondere debeat, et ille destructionem de custodia fecerit vel vastum, nos ab illo capiemus emendam, et terra committatur duobus legalibus et discretis hominibus de feodo illo, qui de exitibus respondeant nobis vel ei cui eos assignaverimus; et si dederimus vel vendiderimus alicui custodiam alicujus talis terrae, et ille destructionem inde fecerit vel vastum, amittat ipsam custodiam, et tradatur duobus legalibus et discretis hominibus de feodo illo qui similiter nobis respondeant sicut praedictum est.

The guardian of a minor shall enjoy reasonable rights without "waste" of men or goods: a sheriff acting as guardian, if wasteful, shall give amends, any other guardian wasting shall lose his wardship: in each case the land shall be transferred to the care of two men of the fee.

Provisions of Westminster, § 20 (p. 123)

Statute of Marlborough, 1267

Firmarii si fecerint vastum et super hoc vincantur, dampna plene refundant et graviter per misericordiam puniantur.

Farmers of wardships committing waste shall be at the King's mercy.

³ *Dialogus de Scaccario*, ii. § 10

Quod si minor aetate fuerit haeres, in custodia constitutus legitimam aetatem praestolabitur; tunc autem, vel gratis sicut dictum est, vel secundum beneplacitum regis, sicut adultus haereditatem paternam nanciscetur.

The tenant of the Crown may or may not pay relief when wardship ceases.

Stat. 36 Edward III. § 13

They shall also
pay treble
damages.

... soit reint a la volente le Roi et runde al heir les
damages au treble.

The guardian
shall also see
that the prop-
erty is handed
over to the heir
in good condi-
tion.

5. Custos autem, quamdiu custodiam terrae habuerit, sustentet domos, parcos, vivaria, stagna, molendina, et cetera ad terram illam pertinentia, de exitibus terrae ejusdem; et reddat haeredi, cum ad plenam aetatem pervenerit, terram suam totam instauratam de carrucis et wainnagiis secundum quod tempus wainnagii exigit et exitus terrae rationabiliter poterunt sustinere.

Charter of 1216

These provisions
are applicable
also to vacant
sees, with the
exception that
such wardship
should not be
sold.

Custos — instauratam de carrucis, et omnibus aliis rebus ad minus secundum quod illam recepit. Haec omnia observentur de custodiis archiepiscopatum, episcopatum, abbatiarum, prioratum, ecclesiarum et dignitatum vacantium quae ad nos pertinent, excepto quod hujusmodi custodiae vendi non debent.

Disparaging
marriage for
heirs provided
against.

6. Haeredes maritentur absque disparagatione, ita tamen quod, antequam contrahatur matrimonium, ostendatur propinquis de consanguinitate ipsius haeredis.

Charter of 1216

Haeredes maritentur absque disparagatione.

Coronation Charter of Henry I. § 3 (p. 20)

Et si quis baronum — inimico meo.

Articles of the Barons, § 3

... et ut haeredes ita maritentur ne disparagentur et per consilium propinquorum de consanguinitate sua.

Petition of the Barons (1258), § 6

Item petunt de maritagiis domino regi pertinentibus, quod non maritentur ubi disparagentur, videlicet hominibus qui non sunt de natione regni Angliae.

Marriages with foreigners are a disparagement.

7. Vidua post mortem mariti sui statim et sine difficultate habeat maritagium et haereditatem suam, nec aliquid det pro dote sua, vel pro maritagio suo, vel haereditate sua quam haereditatem maritus suus et ipsa tenuerint, die obitus ipsius mariti, et maneat in domo mariti sui per quadraginta dies post mortem ipsius infra quos assignetur ei dos sua.

A widow is to be secured in the possession of her dower, her marriage portion, and her inheritance, and shall have right of quarantine—*i.e.*, the right to remain in her husband's house for forty days—

Charter of 1216

Vidua — dos sua, nisi prius ei fuerit assignatur, vel nisi domus illa sit castrum; et si de castro recesserit, statim provideatur ei domus competens in qua possit honeste morari quousque dos sua ei assignetur secundum quod praedictum est.

unless that house is a castle, in which case another suitable house must be immediately provided for her.

Charter of 1217

Vidua — mariti et maneat in capitali mesuagio mariti sui per xl dies post obitum ipsius mariti sui, infra quos assignetur ei dos sua nisi prius fuerit ei assignata, vel nisi domus illa sit castrum, et si de castro recesserit, statim provideatur ei domus competens in qua possit honeste morari quousque dos sua ei assignetur secundum quod praedictum est; et habeat rationabile estuverium suam interim de comuni. Assignetur autem ei pro dote sua tertia pars totius terrae mariti sui quae sua fuit in vita sua, nisi de minori dotata fuerit ad ostium ecclesiae.

She may remain in the chief mansion of her husband for forty days after his death, unless that house is a castle; and meanwhile she is to enjoy a reasonable share of all produce which she holds in common with the heir. The widow's dower is defined as the third part of her husband's lands.

Coronation Charter of Henry I. §§ 3, 4 (p. 20)

Et si mortuo viro — maritationem habebit . . . si vero uxor — legitime servaverit.

8. Nulla vidua distringatur ad se maritandam dum vivere voluerit sine marito, ita tamen quod securitatem faciat quod se non maritabit sine assensu nostro, si de nobis

No widow is to be compelled to marry; and she must not marry without consent of the lord from whom she holds her lands.

tenuerit, vel sine assensu domini sui de quo
tenuerit, si de alio tenuerit.

Coronation Charter of Henry I. §§ 3, 4 (p. 20)

Et si mortuo viro — eam non dabo marito nisi
secundum velle suum.

Si vero uxor — nisi secundum velle suum.

THE CROWN
officers in en-
forcing payment
of a debt shall
distrain first on
the personal
estate of the
debtor and on
the chief debtor
in preference of
his sureties. If
the sureties have
to pay after all,
they may have
possession of the
chief debtor's
lands and rents.

9. Nec nos nec ballivi nostri seisiemus
terram aliquam nec redditum pro debito
aliquo, quamdiu catalla debitoris sufficiunt
ad debitum reddendum; nec plegii ipsius
debitoris distringantur quamdiu ipse capitalis
debitor sufficit ad solutionem debiti; et si
capitalis debitor defecerit in solutione debiti,
non habens unde solvat, plegii respondeant
de debito; et, si voluerint, habeant terras
et redditus debitoris donec sit eis satisfactum
de debito quod ante pro eo solverint, nisi
capitalis debitor monstraverit se esse quietum
inde versus eosdem plegios.

Charter of 1216

THE SURETIES
are
liable if the
debtor is unwill-
ing to pay.

Nos vero vel ballivi — ad debitum reddendum; et ipse
debitor paratus sit inde satisfacere, nec plegii — non
habens unde reddat, aut reddere nolit cum possit,
plegii respondeant — plegios.

Dialogus de Scaccario, II. xiv

A prescribed
order is enjoined
in which mov-
ables shall be
sold.

Caveat autem vicecomes ut venditores suos praemon-
uerit in vendendis hunc ordinem observare; mobilia
cujusque primo vendantur; bobus autem arantibus, per
quos agricultura solet exerceri, quantum poterunt parcant,
ne, ipsa deficiente, debitor amplius in futurum egere
cogatur.

10.* Si quis mutuo ceperit aliquid a Judaeis,
plus vel minus, et moriatur antequam

debitum illud solvatur, debitum non usuret quamdiu hæres fuerit infra aetatem, de quocumque teneat; et si debitum illud inciderit in manus nostras, nos non capiemus nisi catallum contentum in carta.

A debt of the Jews shall bear no interest during a minority, the Crown assuming the debt will take merely the principal.

11.* Et si quis moriatur, et debitum habeat Judaeis, uxor ejus habeat dotem suam, et nihil reddat de debito illo; et si liberi ipsius defuncti qui fuerint infra aetatem remanserint, provideantur eis necessaria secundum tene-mentum quod fuerit defuncti et de residuo solvatur debitum, salvo servitio dominorum; simili modo fiat de debitis quae debentur aliis quam Judaeis.

Debts to Jews can be paid only out of the residue of an estate after provision has been made for the dower of the widow, suitable necessities for the children, and the service due to feudal lords. Similarly with debts to others than Jews.

Articles of the Barons, § 35

Si quis moriatur — simili modo fiat de aliis debitis; et ut custos terrae reddat haeredi, cum ad plenam aetatem pervenerit, terram suam instauratam secundum quod rationabiliter poterit sustinere de exitibus terrae ejusdem de carucis et wainagiis.

12.* Nullum scutagium vel auxilium ponatur in regno nostro, nisi per commune consilium regni nostri, nisi ad corpus nostrum redimendum, et primogenitum filium nostrum militem faciendum, et ad filiam nostram primogenitam semel maritandam, et ad haec non fiat nisi rationabile auxilium: simili modo fiat de auxiliis de civitate Lundoniarum.

No scutage or aid is to be imposed unless by common counsel of our kingdom except for three purposes, and then only a reasonable aid. Similarly with regard to aids from the City of London.

Articles of the Barons, § 32

Ne scutagium — rationabile auxilium. Simili modo fiat de tallagiis et auxiliis de civitate Lundoniarum, etc.

Similarly with regard to tallages from the City of London.

Let scutage be taken in future as in the time of Henry II.

Charter of 1217, § 44

Scutagium capiatur de cetero sicut capi consuevit tempore Henrici regis avi nostri.

London and other towns shall have their liberties and free customs.

13. Et civitas Lundoniarum habeat omnes antiquas libertates et liberas consuetudines suas, tam per terras, quam per aquas. Praeterea volumus et concedimus quod omnes aliae civitates et burgi et villae et portus habeant omnes libertates et liberas consuetudines suas.

Charter of 1216

Also the barons of the Cinque Ports.

Civitas Lundoniarum — consuetudines suas. Praeterea volumus — villae et barones de quinque portibus et omnes portus — suas.

Charter to London (p. 126)

For getting the common counsel mentioned in § 12 there shall be summoned the greater barons individually, and all other tenants in chief generally, through the local officers. Forty days' notice shall be given.

14.* Et ad habendum commune consilium regni, de auxilio assidendo aliter quam in tribus casibus praedictis, vel de scutagio assidendo, summoneri faciemus archiepiscopos, episcopos, abbates, comites, et majores barones, sigillatim per litteras nostras; et praeterea faciemus summoneri in generali, per vicecomites et ballivos nostros, omnes illos qui de nobis tenent in capite; ad certum diem, scilicet ad terminum quadraginta dierum ad minus, et ad certum locum; et in omnibus litteris illius summonitionis causam summonitionis exprimemus; et sic facta summonitione negotium ad diem assignatum procedat secundum consilium illorum qui praesentes fuerint, quamvis non omnes summoniti venerint.

This clause was not asked for in the Articles of the Barons.

Dialogus de Scaccario, II. x

Quidam enim de rege tenent in capite quae ad coronam pertinent, baronias scilicet majores seu minores.

Tenants in chief are of two classes — greater and lesser.

15.* Nos non concedemus de cetero alicui quod capiat auxilium de liberis hominibus suis, nisi ad corpus suum redimendum, et ad faciendum primogenitum filium suum militem, et ad primogenitam filiam suam semel maritandam, et ad haec non fiat nisi rationabile auxilium.

No one is to be allowed to take an aid from his tenants for any other than the three purposes mentioned in § 12, and then it must be reasonable

Statute of Westminster I. (1275) § 36

Pur ceo que avaunt ces ures ne fut unkes resonable aide a fere fiuz Chivalers, ou a filles marier, mise en certain, ne quant ele devoit estre prise, ne quel houre, par quei les uns leverent outraiouse aide plus tost que ne sembloit mester, dont le pople se senti grevee ; purveu est que desoremes de fee de Chivaler entier solement seient donez vint souz, e de vint liveres de tere tenues par socage vint souz, e de plus plus, e de meins meins, solum le afferaunt ; e que nul ne puisse lever tiel aide de fere son fiuz Chivaler taunt que son fiuz seit de age de quinze aunz, ne a sa fille marier taust que ele seit de age de set aunz ; et de ceo serra fet mencion en la brief le rey forme sur ceo, quant il le veille demaunder.

Forasmuch as before this time reasonable aid to make one's son Knight or to marry his daughter was never put in certain, nor how much should be taken, nor at what time, whereby some levied unreasonable aid, and sooner than seemed necessary, whereby the people were sore grieved : it is provided, that from henceforth of a whole Knight's fee there be taken but xx.s., and of xx. pound land holden in socage xx.s. ; and of more more and of less less after the rate. And that none shall levy such aid to make his son Knight until his son be fifteen years of age, or to marry his daughter until she be of the age of seven years ; and of that there shall be made mention in the King's writ formed on the same, when any will demand it.

The exaction of excessive service forbidden.

16. Nullus distringatur ad¹ faciendum majus servitium de feodo militis, nec de alio libero tenemento, quam inde debetur.

Articles of the Barons, § 7

Ne aliquis majus servitium faciat de feodo militis quam inde debetur.

Roger of Hoveden, Vol. IV. p. 40 (1198)

Bishop Hugh of Lincoln with-stands King Richard's demand—

Eodem anno Ricardus rex Angliae petiit per Hubertum Cantuariensem archiepiscopum, ut homines regni Angliae invenirent ei trecentos milites uno anno moraturos secum in servitio suo, vel tantam pecuniam ei darent unde ipse posset per unum annum trecentos milites in servitio suo retinere, videlicet unicuique militi tres solidos Anglicanae monetae de liberatione in die ; ad quod faciendum cum ceteri omnes proni essent, non audentes resistere voluntati regis, solus Hugo Lincolnensis episcopus, verus Dei cultor, abstinens se ab omni opere pravo, respondit pro se, quod ipse in hoc voluntati regis nequaquam adquiesceret.

Vita Magna S. Hugonis, Lib. V. cap. 5 (p. 249)

on the ground that his fief owes service only at home.

Requisito super hoc in coetu illo assensu Lincolnien-
sis episcopi, ipse tacitus secum deliberans paulisper . . . ait . . . " Scio equidem ad militare servitium domino regi, sed in hac terra solummodo, exhibendum Lincolnien-
sem ecclesiam teneri : extra metas vero Angliae nil tale ab ea deberi."

"Unknown Charter of Liberties" of John, § 7

Service outside England to be only in Normandy and Brittany.

Adhuc hominibus meis concedo ne eant in exercitu extra Angliam nisi in Normanniam et in Britanniam et hoc decenter ; quod si aliquis debet inde servitium decem militum, consilio baronum meorum alleviabitur.

Walter of Hemingburgh, II. 121 (1297)

Edward I.'s quarrel over the question of foreign service with the Earls of Hereford and Norfolk.

In festo Sancti Matthiae apostoli ejusdem anni, convocatis optimatibus regni absque clero, tenuit rex parliamentum suum apud Salesbire, ubi rogavit quosdam magnatum ut in Vasconiam transfretarent, et coeperunt singuli se excusare. Indignatusque rex comminabatur quibusdam eorum vel quod irent vel quod terras eorum daret aliis qui ire vellent. Et in hoc verbo scandalizati sunt

multi et ~~schisnla~~ coepit oriri inter eos. Comes etiam Herefordensis et comes Marescallus excusaverunt se, dicentes quod officia sua quae sibi jure haereditario competeabant facerent libenter cundo cum ipso rege. Iterataque prece rogatus est comes Marescallus ut iret : et ait " Libenter tecum vadam, O rex, praecedendo faciem tuam in acie prima, sicut mihi competit haereditario jure." Et rex " Etiam sine me ibis cum aliis." At ille, " Non teneor, nec est meae voluntatis, O rex, sine te iter arripere." Et iratus rex prorupit in haec verba, ut dicitur ; " Per Deum, comes, aut ibis aut pendebris " : Et illi, " Per idem juramentum, O rex, nec ibo nec pendebo." Et licentia non accepta recessit, dissolutumque est concilium quoad diem hanc.

17. Communia placita non sequantur curiam nostram sed teneantur in aliquo loco certo.

Common pleas to be held in a fixed place.

Benedictus Abbas, Vol. I. p. 207 (1178)

Itaque dominus rex moram faciens in Anglia quaesivit de Justitiis quos in Anglia constituerat, si bene et modeste tractaverunt homines regni ; et cum didicisset quod terra et homines terræ nimis gravati essent ex tanta Justitiarum multitudine, quia octodecim erant numero ; per consilium sapientium regni sui quinque tantum elegit, duos scilicet clericos et tres laicos, et erant omnes de privata familia sua. Et statuit quod illi quinque audirent omnes clamores regni, et rectum facerent, et quod a curia regis non recederent, sed ibi ad audiendum clamores hominum remanerent ; ita ut si aliqua quaestio inter se veniret, quae per eos ad finem duci non posset, auditui regio praesentaretur, et sicut ei et sapientioribus regni placeret terminaretur.

Henry II. chooses five out of the eighteen Justices who shall always remain with the King for hearing complaints ; and such as they cannot solve shall be decided by the King and his wise men.

Articuli super Cartas (1300)

§ 5. D'autre part le Roi voet qe la Chancelerie et les Justices de soen banc lui suient, issint q'il eit touz jours pres de lui ascuns sages de la lei qui sachent les busoignes

On the other hand, the King wishes that the Chancellor and the Justices of his Bench shall follow him, so that he may have at all times near him some wise in the law who are

que vieignent a la curt due-
ment deliverer a totes les
foiz qe mester serra.

able duly to order all such
matter as shall come into
the court at all times when
need shall require.

Two Justices
and four Knights
chosen by the
county shall
hold the three
petty assizes four
times a year in
each county.

18. Recognitiones de nova dissaisina, de morte antecessoris, et de ultima prae-sentatione, non capiantur nisi in suis comitatibus et hoc modo; nos, vel si extra regnum fuerimus, capitalis justitiarius noster, mittemus duos justitiarios per unumquemque comitatum per quatuor vices in anno, qui cum quatuor militibus cujuslibet comitatus electis per comitatum, capiant in comitatu et in die et loco comitatus assisas praedictas.

Charter of 1217

Novel disseisin
and mort d'an-
cestor shall be
held only once a
year

Cases under
them which are
too hard for the
travelling Jus-
tices shall be
referred to the
Justices of the
Bench for final
decision.

A-sizes of dar-
rein presentment
shall always go
before the Jus-
tices of the
Bench.

§ 13. Recognitiones de nova dissaisina et de morte antecessoris non capiantur — per unumquemque comitatum semel in anno qui cum militibus comitatum capiant in comitatibus assisas praedictas. § 14. Et ea quae in illo adventu suo in comitatu per justitiarios praedictos ad dictas assisas capiendas missos terminari non possunt, per eosdem terminentur alibi in itinere suo, et ea quae per eosdem, propter difficultatem aliquorum articulorum, terminari non possunt, referantur ad justitiarios nostros de banco et ibi terminentur. § 15. Assisae de ultima praesentatione semper capiantur coram justitiariis de banco et ibi terminentur.

Assize of Northampton, §§ 4, 5 (pp. 90, 91)

If necessary, a
sufficient num-
ber of Knights
and freeholders
are to remain
after the day of
the County
Court, in order
to finish the
business.

19.* Et si in die comitatus assisae prae-dictae capi non possint, tot milites et libere tenentes remaneant de illis qui interfuerint comitatu die illo, per quos possint judicia sufficienter fieri, secundum quod negotium fuerit majus vel minus.

Articles of the Barons, § 8

. . . nec aliquis ob hoc (*i.e.* ut recognitiones capiantur) sit summonitus nisi iuratores et duae partes.

Only the jurors and the two parties to the suit should be summoned to meet the justices of assize.

Provisions of Westminster, § 21, and note (p. 123)

20. Liber homo non amercietur pro parvo delicto, nisi secundum modum delicti; et pro magno delicto amercietur secundum magnitudinem delicti, salvo contenemento suo; et mercator eodem modo, salva mercandisa sua; et villanus eodem modo amercietur salvo wainnagio suo, si inciderint in misericordiam nostram; et nulla praedictarum misericordiarum ponatur, nisi per sacramentum proborum hominum de visneto.

Amercements must be in accordance with the offence and assessed by a jury of the neighbourhood: the means of livelihood must be excepted.

Charter of 1217, § 16

Liber homo — salva mercandisa sua; et villanus alterius quam noster eodem modo — de visneto.

Such protection not limited to the royal villan.

Willelmi I, Articuli X, §§ 9, 10

Ego prohibeo ut nullus vendat hominem extra patriam super plenam forisfacturam meam. Interdico etiam ne quis occidatur aut suspendatur pro aliqua culpa . . . et hoc praeceptum non sit violatum super forisfacturam meam plenam.

No one to be sold outside the country: no one to be killed or hanged.

*Coronation Charter of Henry I. § 8 (p. 21)**Glanvill, De Legibus Angliae, IX. 11*

Est autem misericordia Domini Regis qua quis per iuramentum legalium hominum de visneto eatenus amerciandus est, ne aliquid de suo honorabili contenemento amittat.

Amercement by jury prevents a man "in mercy" from losing his estate.

Dialogus de Scaccario, II. xvi

Quisquis enim in regiam majestatem deliquisse deprehenditur, uno trium modorum juxta qualitatem delicti sui regi condemnatur, aut enim in universo mobili suo reus judicatur pro minoribus culpis, aut in omnibus immobilibus, fundis scilicet et redditibus, ut eis exheredetur, quod

An offender against the Crown, according to the measure of his offence, is condemned to loss

of movables or of immovables, or of life and limb.

fit pro majoribus culpis, aut pro maximis quibuscumque vel enormibus delictis, in vitam suam vel membra. Cum igitur aliquis de mobilibus in beneplacito regis judicatur, lata in eum a iudicibus sententia per haec verba "Iste est in misericordia regis de pecunia sua," idem est ac si "de tota" dixissent.

Earls and barons to be amerced by their equals and according to the measure of their offence.

21. Comites et barones non amercentur nisi per pares suos, et non nisi secundum modum delicti.

The Articles of the Barons contain no demand for this.

Bracton, De Legibus Angliae, III. folio 116(b)

De illis qui sunt in misericordia domini regis et non sunt amerciati, ad quod videndum, qualiter quis sit amerciandus. Et sciendum quod miles et liber homo non amerciabitur nisi secundum modum delicti, secundum quod delictum fuit magnum vel parvum et salvo contemento suo. Mercator vero non nisi salva merchandisa sua. Et villanus autem non nisi salvo wannagio suo, et hoc per iudicium proborum hominum de visneto, qui affidabunt simul cum serviente. Comites vero vel Barones non sunt amerciandi nisi per pares suos et secundum modum delicti, et hoc per Barones de Scaccario, vel coram ipso rege. Clericus vero non amerciabitur secundum beneficium suum ecclesiasticum, sed secundum quantitatem laici feodi sui, et secundum modum delicti.

Earls and barons are to be amerced by Barons of the Exchequer or in the King's presence.

In the amercement of a clerk in Holy Orders, his ecclesiastical benefice is exempt, and his lay holding is to be treated like all other lay holdings.

22. Nullus clericus amercietur de laico tenemento suo, nisi secundum modum aliorum praedictorum, et non secundum quantitatem beneficii sui ecclesiastici.

Articles of the Barons, § 10

Ut clericus amercietur de laico feodo suo secundum modum, etc.

Charter of 1216, § 17

Nullus clericus amercietur nisi secundum — ecclesiastici,

Charter of 1217, § 18

Nulla ecclesiastica persona amercietur secundum quantitatem beneficii sui ecclesiastici, sed secundum laicum tenementum suum et secundum quantitatem delicti.

This rule is restricted to the parish clergy.

23. Nec villa nec homo distringatur facere pontes ad riparias, nisi qui ab antiquo et de jure facere debent.

The obligations of bridge-making are not to be extended.

• *Articles of the Barons, § 11*

Ne aliqua villa amercietur pro pontibus faciendis, etc.

Secular Laws of Cnut, § 66 (p. 16)

24. Nullus vicecomes, constabularius, coronatores, vel alii ballivi nostri, teneant placita coronae nostrae.

The determining of pleas of the Crown taken away from local officials.

Articles of the Barons, § 14

Ut nullus vicecomes intromittat se de placitis ad coronam pertinentibus sine coronatoribus. . . .

Forma procedendi in placitis Coronae Regis, 1194

In primis eligendi sunt quatuor milites de toto comitatu, qui per sacramentum suum eligant duos legales milites de quolibet Hundredo vel Wapentacco, et illi duo eligant super sacramentum suum decem milites de singulis Hundredis vel Wapentaccis; vel, si milites defuerint, legales et liberos homines, ita quod illi xii in simul respondeant de omnibus capitulis de toto Hundredo vel Wapentacco.

Four chosen Knights of the county shall choose two Knights of each hundred, and the two shall choose ten more Knights or freeholders, and these twelve shall answer on the following points—

Capitula placitorum Coronae Regis

1. De placitis coronae novis et veteribus et omnibus quae nondum sunt finita coram justitiariis domini regis.

Criminal cases.

2. Item de omnibus recognitionibus et omnibus placitis quae summonita sunt coram justitiariis per breve regis, vel capitalis justitiae, vel a capitali curia regis coram eis missa.

Civil cases.

Three Knights and a clerk to be chosen in each county to keep the pleas of the Crown

No Sheriff to be justice in his own county.

The terms of the counties, etc., shall not be increased. Only the royal domains are not protected.

20. Praetera in quolibet comitatu eligantur tres milites et unus clericus custodes placitorum coronarum.

21. Et nullus vicecomes sit justitiarius in vicecomitatu suo, nec in comitatu quem tenuerit post primam coronationem domini regis.

25.* Omnes comitatus, hundredi, wapentakii et trethingii, sint ad antiquas firmas absque ullo incremento, exceptis dominicis maneriis nostris.

Articles of the Barons, § 14

... et ut comitatus et hundreda sint ad antiquas firmas, etc.

The procedure to be observed on the death of a Crown tenant who was also a debtor to the Crown, in order to prevent irregularities on the part of the King's officers.

26. Si aliquis tenens de nobis laicum feodum moriatur, et vicecomes vel ballivus noster ostendat litteras nostras patentes de summonitione nostra de debito quod defunctus nobis debuit, liceat vicecomiti vel ballivo nostro attachiare et inbreviare catalla defuncti, inventa in laico feodo, ad valentiam illius debiti, per visum legalium hominum, ita tamen quod nihil inde amoveatur, donec persolvatur nobis debitum quod clarum fuerit; et residuum relinquatur executoribus ad faciendum testamentum defuncti; et, si nihil nobis debeatur ab ipso, omnia catalla cedant defuncto, salvis uxori ipsius et pueris rationabilibus partibus suis.

Vide supra, § 9

Apart from debts and with the co-operation of the Church, the goods of an intestate shall go to the natural heirs.

27.* Si aliquis liber homo intestatus decesserit, catalla sua per manus propinquorum parentum et amicorum suorum, per visum ecclesiae distribuantur, salvis unicuique debitis quae defunctus ei debebat.

Articles of the Barons, § 16

Si aliquis — distribuatur.

*Coronation Charter of Henry I. § 7 (p. 21)**Coronation Charter of Stephen (p. 23)*

Si quis episcopus vel abbas — distributio.

Glanvill, De Legibus Angliae, VII. § 16

Cum quis vero intestatus decesserit, omnia catalla sua sui domini esse intelliguntur.

The goods of an intestate are supposed to belong to his lord.

Bracton, De Legibus Angliae, folio 60(b)

Si liber homo intestatus et subito decesserit, dominus suus nil intromittat de bonis defuncti, nisi de hoc tantum quod ad ipsum pertinuerit, scilicet quod habeat suum herioth, sed ad ecclesiam et ad amicos pertinebit executio bonorum. . . . Si autem post debita deducta et post deductionem expensarum quae necessariae sunt . . . id totum quod tunc superfuerit, dividatur in tres partes. . . .

If anyone dies intestate and suddenly, the lord should claim nothing except the heriot. The executors are the Church and the friends of the deceased.

28. Nullus constabularius vel alius ballivus noster, capiat blada vel alia catalla alicujus, nisi statim inde reddat denarios, aut respectum inde habere possit de voluntate venditoris.

Check on the royal right of purveyance: the royal official is to pay immediately for all that he requisitions.

Charter of 1216, § 21

Nullus constabularius vel ejus ballivus capiat blada vel alia catalla alicujus qui non sit de villa ubi castrum situm est, nisi — venditoris; si autem de villa fuerit, teneatur infra tres septimanas pretium reddere.

But payment for goods taken from the inhabitants of a town where there is a castle may be delayed for three weeks,

Charter of 1217, § 23

Nullus — venditoris; si autem de villa ipsa fuerit infra xl dies pretium reddat.

for forty days.

29. Nullus constabularius distringat aliquem militem ad dandum denarios pro custodia castri, si facere voluerit custodiam illam in propria persona sua, vel per alium

No constable shall take money in lieu of service from a Knight who is willing to do his castle guard in person

or by deputy, and service with the army shall be an equivalent to castle guard for the time that it lasts.

probum hominem, si ipse eam fatere non possit propter rationabilem causam; et si nos duxerimus vel miserimus eum in exercitum, erit quietus de custodia, secundum quantitatem temporis quo per nos fuerit in exercitu.

This is only allowed in the case of a fief for which service with the army is due.

No royal official should forcibly requisition the horses or carts of a freeman,

Charter of 1217, § 24

Nullus — in exercitu de feodo pro quo fecit servitium in exercitu.

30. Nullus vicecomes vel ballivus noster vel aliquis alius capiat equos vel caretas alicujus liberi hominis pro cariagio faciendo, nisi de voluntate ipsius liberi hominis.

Charter of 1216, § 23

unless he pays for their hire at the rates sanctioned by custom,

Nullus — nisi reddat liberationem antiquitus statutam, scilicet pro caretta ad duos equos decem denarios per diem, et pro caretta ad tres equos quatuordecim denarios per diem.

Charter of 1217, § 26

The demesne carts of parsons, knights, and ladies are exempted from such liability.

Nullus — diem. Nulla caretta dominica alicujus ecclesiasticae personae vel militis vel alicujus dominae capiatur per baillivos praedictos.

No wood for castles is to be forcibly seized by our officials,

31. Nec nos nec ballivi nostri capiemus alienum boscum ad castra, vel alia agenda nostra, nisi per voluntatem ipsius cujus boscum ille fuerit.

Charter of 1217, § 27

nor by any one else.

Nec nos nec ballivi nostri nec alii capiemus, etc.

After the lapse of a year and a day the lands of convicted felons shall return to the lord of the tref.

32. Nos non tenebimus terras illorum qui convicti fuerint de feloniam, nisi per unum annum et unum diem, et tunc reddantur terrae dominis feodorum.

Glanvill, De Legibus Angliae, VII. § 17

Si quis de feloniam convictus fuerit, vel confessus in Curia, eo per jus regni exhaereditato terra sua domino suo remanet escaeta. Notandum quod si quis in capite de domino rege tenuerit, tunc tam terra quam omnes res mobiles suae et catalla penes quemcunque inveniuntur, ad opus domini regis capientur sine omni recuperatione alicujus haeredis. Sin autem de alio quam de rege tenuerit is qui utlagatus est, vel de feloniam convictus, tunc quoque omnes res suae mobiles, regis erunt. Terra quoque per unum annum remanebit in manu domini regis, elapso autem anno terra eadem ad rectum dominum, scilicet ad ipsum de cujus feodo est, reuertetur verumtamen cum domorum subversione et arborum extirpatione.

A convicted felon who holds in chiet of the Crown forfeits for himself and his heirs both lands and goods to the Crown. The Crown also has the goods of a felon who holds of another lord, and even can waste the lands for a year and a day, after which they revert to the lord of the fief.

33. Omnes kydelli de cetero deponantur penitus de Tamisia et de Medewaye et per totam Angliam, nisi per costeram maris.

All weirs shall be removed throughout the country except upon the sea coast.

Articles of the Barons, § 23

Ut omnes — Angliam.

34. Breve quod vocatur *Praeceptum* de cetero non fiat alicui de aliquo tenemento unde liber homo amittere possit curiam suam.

The royal use of the writ Praeceptum to interfere between a lord and his free tenants in matters of land is forbidden.

Glanvill, De Legibus Angliae, I

§ 3. In curia domini regis habent ista tractari et terminari, placitum de baroniis, placitum de avocationibus ecclesiarum, etc.

The King's Court treats of pleas about baronies, avocations of churches, etc.

§ 4. Ad vicecomites pertinent ista—placitum de recto de liberis tenementis per breve domini regis, ubi curia dominorum probatur de recto defecisse, etc.

The Sheriffs deal with pleas of right about free holdings by the King's writ when the lords' courts are shown to have failed to do right.

§ 5. Cum clamat quis domino regi aut ejus Justiciis de feodo aut de libero tenemento suo si fuerit querela

If there has been an appeal to the Crown in the

matter of a free tenement, or if the King desires to bring the question into his own Court, the appellant should use the following writ for the purpose. •

talis quod debeat vel dominus rex velit in curia sua deduci, tunc is qui quaeritur tale breve de summonitione habebit.

§ 6. Rex vicecomite salutem. Praecepit A quod sine dilatione reddat B unam hidam terrae in villa illa, unde idem B queritur quod praedictus A ei deforceat : et nisi fecerit, summone eum per bonos summonitores quod sit ibi coram me vel Justitiariis meis in crastino post octabas clausi Paschae apud locum illum, ostensurus quare non fecerit. Et habeas ibi summonitores et hoc breve.

Provisions of Westminster, § 18 (p. 122)

Uniformity of weights and measures as already enacted in Richard I's Assizes of Measures (1197).

35. Una mensura vini sit per totum regnum nostrum, et una mensura cervisiae, et una mensura bladi, scilicet quarterium Londoniense, et una latitudo pannorum tinctorum et russetorum et halbergettorum, scilicet duae ulnae infra listas ; de ponderibus autem sit ut de mensuris.

A writ of inquest where life or limb are concerned is never to be refused.

36. Nihil detur vel capiatur de cetero pro brevi inquisitionis de vita vel membris, sed gratis concedatur et non negetur.

Bracton, De Legibus Angliae, f. 123

In order to prevent false imprisonment an inquiry is wont to be made whether the prisoners are guilty of the charge of homicide or they have been appealed "out of hate and spite." This is the appropriate writ—

Sed cum iniquum est quod innocentes, sicut illi qui criminosi non sint, diu inclusi detineantur in carcere, ideo ad lachrimosam querelam parentum et amicorum, de gratia domini regis, fieri solet inquisitio, utrum hujusmodi imprisonati pro morte hominis culpabiles essent de morte illa vel non, et utrum appellati essent odio vel atia. Et breve de hujusmodi inquisitione nulli debet denegari. Forma brevis talis est.

Rex vicecomiti salutem. Praecipimus tibi quod per probos et legales homines de comitatu tuo diligenter inquiras, utrum A. de N. captus et detentus in prisona nostra, de tali loco de morte B. unde rectatus et appellatus est, rectatus sit vel appellatus de morte illa odio et atia, vel eo quod inde culpabilis sit : et si odio et atia, quo odio et qua atia, vel quis inde culpabilis sit, et inquisitionem quam inde feceris, etc.

37. Si aliquis teneat de nobis per feodifirmam, vel per sokagium, vel per burgagium, et de alio terram teneat per servitium militare, nos non habebimus custodiam haeredis nec terrae suae quae est de feodo alterius, occasione illius feodifirmae, vel sokagii, vel burgagii: nec habebimus custodiam illius feodifirmae, vel sokagii, vel burgagii, nisi ipsa feodifirma debeat servitium militare. Nos non habebimus custodiam haeredis vel terrae alicujus, quam tenet de alio per servitium militare, occasione alicujus parvae serjanteriae quam tenet de nobis per servitium reddendi nobis cultellos, vel sagittas, vel hujusmodi.

The Crown will not claim prerogative wardship in the case of a minor who holds of other lords, unless he is tenant of the Crown by Knight-service.

Tenure by petty serjeanty does not give the Crown wardship of an heir who also holds by Knight-service of another lord.

Articles of the Barons, § 27

Si aliquis — occasione burgagii vel sokagii, nec debet habere custodiam burgagii, sokagii, vel feodifirmae; et quod liber homo non amittat militiam suam occasione parvarum serjantissarum sicut de aliis qui tenent aliquod tenementum reddendo inde cultellos, etc.

Glanvill, De Legibus Angliae, VII. § 10

Si quis in capite de domino rege tenere debet, tunc ejus custodia ad dominum regem plene pertinet sive alios dominos habere debeat ipse haeres sive non: quia dominus rex nullum habere potest parem, multo minus superiorem, verumtamen ratione burgagii tantum non praefertur dominus rex aliis in custodiis.

The King always has the wardship of a tenant-in-chief even if he holds of other lords, except in the case of burgage tenure.

Petition of the Barons (1258) § 2

Item petunt remedium quod ubi aliquis infra aetatem existens tenet plures terras de pluribus et diversis dominis, et idem teneat aliquam quantitatem terrae de domino rege in capite per servitium militare vel serjeantiam, occasione cujus servitii dominus rex habet custodiam omnium terrarum et tenementorum praedictorum haeredis, de quocumque tenuerit; si dominus rex eat in exercitu, licet teneat in manu sua plura feoda

Where the King exercises prerogative wardship and holds in his hand several Knights' fees belonging to other lords, yet in the event of war he demands the full service from the

other lords without making any allowance for the fees which he holds in wardship.

The Barons claim at common law the wardship of the lands held of them until the heir comes of age, provided the Crown has the right of marriage and the custody of the person

A man must not go to ordeal unless the word of the local official is corroborated by a jury.

militem de feodis aliorum, sicut praedictum est, nihilominus petit totum servitium a praedictis hominibus feodi qui de eo tenent in capite, nec eis vult quicquam allocare ex hoc quod tenet custodiam praedictorum feodorum in manu sua.

§ 3. Item petunt barones habere custodiam terrarum et tenementorum suorum qui sunt de feodis suis, et haerendum usque ad legitimam aetatem ipsorum; ita quod dominus rex habeat maritagium et custodiam corporis penes se; et hoc petunt de jure communi.

Provisions of Westminster, § 12 (p. 120)

38. Nullus ballivus ponat de cetero aliquem ad legem simplici loquela sua, sine testibus fidelibus ad hoc inductis.

Charter of 1217, § 34

A man must not be subjected to any further test of his guilt unless, etc.

Nullus — aliquem ad legem manifestam nec ad juramentum simplici loquela, etc.

Assize of Clarendon, §§ 4, 12 (pp. 90, 93)

A freeman's person and property are to be protected from violence, or even molestation, until after judgment, by safeguards of judgment of peers and need for judicial procedure.

39. Nullus liber homo capiatur, vel imprisonetur, aut disseisiatur, aut utlagetur, aut exuletur, aut aliquo modo destruat, nec super eum ibimus, nec super eum mittemus, nisi per legale iudicium parium suorum vel per legem terrae.

Charter of 1217, § 34

The property to be protected is defined.

Nullus — disseisiatur de libero tenemento suo vel libertatibus vel liberis consuetudinibus suis, aut utlagetur, etc.

Elfredes and Guthrumes Frith, § 3

If a King's thegn be accused of homicide, if he wish to purge himself, let him do it with twelve King's thegns; if any one accuse that man who is of less degree than a King's thegn, let him purge himself with eleven of his equals and with one King's thegn.

Leges Henrici, § 31 (7)

Unusquisque per pares suos iudicandus est et ejusdem provinciae.

Every one is to be judged by his peers from the same district.

40. Nulli vendemus, nulli negabimus, aut differemus, rectum aut justitiam.

Sale, refusal, or delay of justice denounced.

41. Omnes mercatores habeant saluum et securum exire de Anglia, et venire in Angliam, et morari et ire per Angliam, tam per terram quam per aquam, ad emendum et vendendum, sine omnibus malis tollis, per antiquas et rectas consuetudines, prae-terquam in tempore gwerrae, et si sint de terra contra nos gwerrina; et si tales inveniuntur in terra nostra in principio gwerrae, attachientur sine dampno corporum et rerum, donec sciatur a nobis vel capitali justiciario nostro quomodo mercatores terrae nostrae tractentur, qui tunc inveniuntur in terra contra nos gwerrina; et si nostri salvi sint ibi, alii salvi sint in terra nostra.

Foreign merchants trading to England are to be secured against interference with themselves or their trade, and the exaction of excessive tolls. Their treatment in time of war shall depend on the treatment of English merchants by the enemy.

Articles of the Barons, § 31

Quod mercatores — rectas consuetudines.

Charter of 1216, § 34

Omnes mercatores, nisi publice ante prohibiti fuerint, habeant, etc.

A royal proclamation may interfere with the privileges enjoyed by foreign merchants.

42.* Liceat unicuique de cetero exire de regno nostro, et redire, salvo et secure, per terram et per aquam, salva fide nostra, nisi tempore gwerrae per aliquod breve tempus, propter communem utilitatem regni, exceptis imprisonatis et utlagatis secundum legem regni, et gente de terra contra nos gwerrina, et mercatoribus de quibus fiat sicut praedictum est.

With the exception of prisoners, outlaws, enemies at war, and merchants, any one may come in and out of the kingdom freely, except in time of war when public policy demands otherwise, and with a reservation of allegiance to the Crown.

Articles of the Barons, § 33

Ut liceat unicuique — utilitatem regni.

Constitutions of Clarendon, § 4 (p. 73)

Tenants of a barony which has escheated to the Crown are not to be liable for more service than was due to the baron from whom they held.

43. Si quis tenuerit de aliqua escaeta, sicut de honore Walingeford, Notingeham, Boloniae, Lainkastriae, vel de aliis escaetis, quae sunt in manu nostra, et sunt baroniae, et obierit, haeres ejus non det aliud relevium, nec faciat nobis aliud servitium quam faceret baroni si baronia illa esset in manu baronis; et nos eodem modo eam tenebimus quo baro eam tenuit.

Charter of 1217, § 38

The Crown will not claim escheat or wardship in the case of the subtenants of an escheated barony, unless they hold in chief of the Crown elsewhere.

Si quis — quo baro eam tenuit; nec nos, occasione talis baroniae vel escaetae, habebimus aliquam escaetam vel custodiam aliquorum hominum nostrorum, nisi alibi tenuerit de nobis in capite ille qui tenuit baroniam vel escaetam.

Dialogus de Scaccario, II. xxiv

The amount of a relief paid by the heir to a barony is arbitrary: in the case of a tenant by knight service of a barony held in escheat by the Crown, the heir pays a fixed sum.

Si baronia est, in regis est beneplacito quae debeat esse summa relevii. Si vero de escaeta fuerit, quae in manu regis, deficiente haerede, vel aliter, inciderit, pro feodo militis unius hoc tantum regi, nomine relevii, solvet, quod esset suo domino soluturus, hoc est centum solidos.

Petition of the Barons (1258), § 12

The King gives charters conferring rights which do not belong to him, but which he claims as escheats.

Item petunt remedium de hoc, quod dominus rex aliquando pluribus dat per cartam suam aliena jura, dicens illa esse escaeta sua, unde tales dicunt quod non debent nec possunt respondere sine domino rege. Et cum justitiiarii hoc ostendunt domino regi, nihil justitiae in hac parte factum est.

Only those concerned in the forest jurisdiction

44.* Homines qui manent extra forestam non veniant de cetero coram justiciariis

nostris de foresta per communes summonitiones, nisi sint in placito, vel plegii alicujus vel aliquorum, qui attachiati sint pro foresta.

tion need obey the summons to attend the forest courts.

Dialogus de Scaccario, I. xi

Sane forestarum ratio, pena quoque vel absolutio delinquentium in eas, sive pecuniaria fuerit sive corporalis, seorsum ab aliis regni iudiciis secernitur et solius regis arbitrio vel cuiuslibet familiaris ad hoc specialiter deputati subijcitur. Legibus quidem propriis subsistit quas non communi regni jure sed voluntaria principum institutione subnixas dicunt, adeo ut quod per legem ejus factum fuerit non justum absolute sed justum secundum legem forestae deatur. In forestis etiam penetralia regum sunt et eorum maxime deliciae. . . . Unde fit ut delinquentes in eam soli regiae subjaceant animadversioni.

There is a special forest jurisdiction depending on the King's will alone, and administering special law. And since the forests are the King's special preserve, offenders within them are subject to the King's displeasure alone.

Assize of the Forest (1184), § 11

Item rex praecipit quod [archiepiscopi, episcopi] comites et barones et milites et libere tenentes et omnes homines veniant ad summonitionem magistris forestarii sui, sicut se defendi volunt ne incidant in misericordiam domini regis, ad placitandum placita domini regis de forestis suis, et alia negotia sua facienda in comitatu.

All men are to attend the summons of the Master Forester.

Charter of the Forest (1217), § 2

Repeats the above clause, § 44, of Magna Carta.

45.* Nos non faciemus justiciarios, constabularios, vicecomites, vel ballivos, nisi de talibus qui sciant legem regni et eam bene velint observare.

Suitable men are to be appointed as royal officials.

Matthew Paris, Chronica Majora, Vol. II. p. 551 (1213)

Interfuerunt concilio apud Sanctum Albanum . . . ubi cunctis pace regis denunciata, ex ejusdem regis parte firmiter praeceptum est quatenus leges Henrici avi sui ab omnibus in regno custodirentur et omnes leges iniquae penitus enervarentur. Denunciatum est praeterea vice-

At the Council of St. Albans instructions were issued in the King's name that all royal officials, on pain of death

or mutilation,
should observe
the laws of
Henry I., and
should abstain
from unjust
exactions.

comitibus, forestariis, aliisque ministris regis, sicut vitam et membra sua diligunt, ne a quoquam aliquid violenter extorqueant, vel alicui injuriam irrogare præsumant, aut scotalla alicubi in regno faciant sicut facere consueverunt.

Provisions of Oxford (1258)

Del poer la justice e de bailivis.

La haute justice a poer de amender les tors fez de tutes autres justices, et de ballifs, e de cuntes, et de baruns, et de tutes autres genz, solum lei et Æreit de la tere. E les brefs seient pledez solum lei de la tere e en leas deues. E ke la justice ne prenge ren si ne seit present de pain et de vin et de teles choses, ces est a saver, viandes et beifres, sicum lem ad este acustume a porter as tables de prodes homes a la jornee. E ceste meime chose seit entendue de tuz les cunseilers le rei et de tuz ses ballifs. E ke nul ballif par achesun de plai u de sun office ne prenge nul loer par sa main, ne par autru en nule manere. E si il est ateint, ke il seit reint, et cil ke done autresi. E si covent ke le rei done a sa justice et a sa gent ke le servent, ke il ne eient mester ke il ren prengent de autrui.

Of the power of the justice and bailiffs.

The chief justice has power to amend the wrongs done by all the other justices and bailiffs, and earls and barons and all other people, according to the law and justice of the land. And let the writs be pleaded according to the law of the land and in fit places. And that the justice take nothing unless it be presents of bread and wine and such things—that is to say, meat and drink as have been used to be brought to the tables of the chief men for the day. And let this same be understood of all the king's counsellors and of all his bailiffs. And that no bailiff, by occasion of plea or of his office, take any fee in his own hand or through the agency of another in any manner. And if he is convicted, that he be punished and he who gives likewise. And if it be fitting, that the King give to his justice and to his people who serve him, so that they have no occasion to take anything from elsewhere.

De vescuñtes.

Les vescuñtes seient pur-
veus leus genz et prodes
homes et tere tenanz ; issi
ke en chescun cunte seit
un vavasur del cunte memes
vescunte, ke ben et leue-
ment trete la gent del cunte
et dreitement. E ke il ne
prenge loer, e ke il ne
sei vescuñte fors un an
ensemble. E ke en le an
rende ses acuntes al
echeker, e respoine de sun
tens. E ke le rei lui face
del soen, solum sun
afferant coment il pusse
garder le cunte dreitement.
E ke il ne prenge nul loer,
ne li ne ses ballifs. E si il
seient ataint, seient reinz.

Of sheriffs.

Let there be provided as
sheriffs, loyal people and
substantial men, and land
tenants ; so that in each
county there be a vavasour
of the same county as
sheriff, to treat the people
of the county well, loyally
and rightfully. And that
he take no fee, and that he
be sheriff only for a year
together ; and that in the
year he give up his accounts
at the exchequer and
answer for his time. And
that the King grant unto
him out of his own, ac-
cording to his contribution,
so that he can guard the
county rightfully. And that
he take no fee, neither he
nor his bailiffs. And if they
be convicted, let them be
punished.

Clauses added to the Charter in 1217

39. Nullus liber homo de cetero det
amplius alieni vel vendat de terra sua
quam ut de residuo terrae suae possit
sufficenter fieri domino feodi servitium ei
debitum quod pertinet ad feodum illud.

The first re-
straint on alien-
ation — a man
must keep
sufficient land in
his own hands
to do the service
due to his lord.

Statute of Westminster III. (18 Edward I.), 1290

Quia emptores terrarum et tenementorum de feodis
magnatum et aliorum in praejudicium eorundem tem-
poribus retroactis multoties in feodis suis sunt ingressi,
quibus libere tenentes eorundem magnatum et aliorum
terras et tenementa sua vendiderunt, tenenda in feodo
sibi et haeredibus suis de feoffatoribus suis et non de
capitalibus dominis feodorum, per quod iidem capitales
domini eschaetas, maritagia, et custodias terrarum et

Where a mesne
tenant has alien-
ated lands to a
third party to be
held of him, the
lord of the mesne
tenant often
loses the feudal
dues which are
part of his in-
heritance.

tenementorum de feodis suis existentium sæpius amiserunt; quod quidem eisdem magnatibus et aliis dominis quam plurimum durum et difficile videbatur, et similiter in hoc casu exhaereditio manifesta; dominus rex in parlamento suo apud Westmonasterium post Pascha anno regni sui decimo octavo, videlicet in quindena Sancti Johannis Baptistae, ad instantiam magnatum regni sui, concessit, providit et statuit, quod de cetero liceat unicuique libero homini terram suam seu tenementum sive partem inde pro voluntate sua vendere; ita tamen quod feoffatus teneat terram illam seu tenementum de eodem capitali domino et per eadem servitia et consuetudines per quae feoffator suus illa prius tenuit. Et si partem aliquam earundem terrarum seu tenementorum suorum alicui vendiderit, feoffatus illam teneat immediate de capitali domino, et oneretur statim de servitio quantum pertinet sive pertinere debet eidem domino pro particula illa, secundum quantitatem terrae seu tenementi venditi; et sic in hoc casu decidat capitali domino ipsa pars servitii capienda per manum feoffatoris, ex quo feoffatus debet eidem capitali domino, juxta quantitatem terrae seu tenementi venditi de particula illa servitii sic debiti esse intendens et respondens.

therefore, while a man may alienate all or part of his lands, the new tenant shall step into the place of the alienor, and hold the lands from the alienor's lord by the same services.

Such alienation does not allow of any opportunity for lands to be brought into mortmain. This Act refers only to lands held in fee simple.

Et sciendum est quod per praedictas venditiones sive emptiones terrarum seu tenementorum, seu partis alicujus eorundem, nullo modo possunt terrae seu tenementa, in parte vel in toto, ad manum mortuam devenire, arte vel ingenio contra formam statuti super hoc dudum editi. Et sciendum quod istud statutum locum tenet de terris venditis tenendis in feodo simpliciter tantum; et quod se extendit ad tempus futurum.

The County Court is to be held only once a month or even at longer intervals where it has been customary. The Sheriff's turn should be held twice a year at the usual time and place. The view of frank pledge is for maintenance of the King's peace and for keeping

42. Nullus comitatus de cetero teneatur nisi de mense in mensem, et ubi major terminus esse solebat, major sit. Nec aliquis vicecomes vel baillivus suus faciat turnum suum per hundretum nisi bis in anno et non nisi in loco debito et consuetudo, videlicet semel post Pascha et iterum post festum Sancti Michaelis.¹ Et visus de

¹ *Laws of Cnut*, § 18 and note (p. 5).

franco plegio tunc fiat ad illum terminum Sancti Michaelis sine occasione, ita scilicet quod quilibet habeat libertates suas quas habuit et habere consuevit tempore Henrici regis avi nostri vel quas postea perquisivit. Fiat autem visus de franco plegio sic, videlicet, quod pax nostra teneatur et quod tethinga integra sit sicut esse consuevit,¹ et quod vicecomes non quaerat occasiones,² et quod contentus sit de eo quod vicecomes habere consuevit de visu suo faciendo tempore Henrici regis avi nostri.

the tithing complete; the Sheriff is not to use it for purposes of exaction.

43. Non liceat alicui de cetero dare terram suam alicui domui religiosae ita quod eam resumat tenendam de eadem domo, nec liceat alicui domui religiosae terram alicujus sic accipere quod tradat illam ei a quo ipsam recepit tenendam. Si quis autem de cetero terram suam alicui domui religiosae sic dederit et super hoc con-

No one is to enfeoff a religious house, and then receive back the land as tenant of that house: nor is any religious house to accept land on such an understanding. In any such case the land is forfeited to the lord of that fee.

¹ *Leges Henrici*, § 8

De hundretis tenendis—

Speciali tamen plenitudine si opus est, bis in anno convenient in hundretum suum quicumque liberi, tam hurthefest quam folgarii, ad dinoscendum scilicet inter caetera, si decaniae plenae sint, vel qui, quomodo, qua ratione recesserint, vel superacceverint. Praesit autem singulis hominum novenis decimus, et toti simul hundreto unus de melioribus, et vocetur aldremanus qui Dei leges et hominum jura vigilantissime studeat observantia promovere. Communis quippe commodi provida dispensatione statutum est, ut a duodecimo aetatis suae anno et in hundreto sit et decima vel plegio liberali, quisquis were vel wite vel jure liberi dignus curat aestimari.

Twice a year a specially full hundred court shall be held for seeing, among other things, that the tithings are full and that all

² *Provisions of Westminster*, §§ 4, 22 and notes (pp. 117 124).

vincatur, donum suum penitus cassetur et terra illa domino suo illius feodi incurrat.

Constitutions of Clarendon, § 2 (p. 71)

Provisions of Westminster, § 14 and note (p. 121)

Statute de Viris Religiosis (Mortmain), 1279

The Provisions of Westminster, § 14, have been a dead letter, and men of religion get by sale or gift fees originally provided for defence of the country, and thus the services due are not paid, and chief lords lose their escheats.

wherefore no one is to buy or sell land under any pretext so as to bring it into mortmain, upon pain of forfeiture.

If anyone so offends the chief lord is given a year within which he may enter on the alienated land, if he neglects to do so, within the next six months the next chief lord of the fee may enter.

Rex Justitiariis suis de Banco, salutem. Cum dudum provisum fuisset quod viri religiosi feoda aliquorum non ingrederentur sine licentia et voluntate capitalium dominorum de quibus feoda illa immediate tenentur; et viri religiosi postmodum nihilominus tam feoda sua propria quam aliorum hactenus ingressi sint, ea sibi appropriando et emendo, et aliquando ex dono aliorum recipiendo, per quod servitia, quae ex huiusmodi feodis debentur, et quae ad defensionem regni ab initio provisa fuerunt, indebite subtrahuntur, et domini capitales escaetas suas inde amittant; nos super hoc pro utilitate regni congruum remedium provideri volentes, de consilio praelatorum, comitum, et aliorum fidelium regni nostri de consilio nostro existentium, providimus, statuimus, et ordinavimus, quod nullus religiosus aut alius quicunque terras aut tenementa aliqua emere vel vendere, aut sub colore donationis aut termini vel alterius tituli cujuscunque, ab aliquo recipere, aut alio quovis modo, arte vel ingenio, sibi appropriare praesumat, sub forisfactura corundem, per quod ad manum mortuam terrae et tenementa huiusmodi deveniant quoquo modo.

Providemus etiam quod si quis religiosus aut alius, contra praesens statutum, aliquo modo, arte vel ingenio, venire praesumpserit, liceat nobis et aliis immediatis capitalibus dominis feodi taliter alienati, illud infra annum a tempore alienationis huiusmodi ingredi et tenere in feodo et haereditate. Et si capitalis dominus immediatus negligens fuerit, et feodum huiusmodi ingredi noluerit infra annum, tunc liceat proximo capitali domino mediato feodi illius, infra dimidium annum sequentem, feodum illud ingredi et tenere, sicut praedictum est; et sic quilibet dominus mediatum faciat, si propinquior dominus in ingrediendo huiusmodi feodum negligens fuerit, ut praedictum est. Et

si omnes hujusmodi capitales domini hujusmodi feodi, qui plenae fuerint aetatis, et infra quatuor maria et extra prisonam, per unum annum negligentes vel remissi fuerint in hac parte, nos statim post annum completum a tempore quo hujusmodi emptiones, donationes, aut alias appropriationes fieri contigerit, terras et tenementa hujusmodi capiemus in manum nostram, et alios inde feoffabimus per certa servitia nobis inde ad defensionem regni nostri facienda: salvis capitalibus dominis feodorum illorum wardis, escaetis et aliis ad ipsos pertinentibus, ac servitiis inde debitis et consuetis. . . .

But if after the expiration of another year none of the chief lords in a position to take up the forfeiture has done so, the King shall take the lands and, with due regard to the rights of the chief lords, shall enfeoff some one on condition of certain services for defence of the country.

46. Omnes barones qui fundaverunt abbatias, unde habent cartas regum Angliae, vel antiquam tenuram, habeant earum custodiam cum vacaverint, sicut habere debent.

Barons who have founded abbeys concerning which they have charters from kings are to have the wardship.

Charter of 1216, § 37

Omnes — debent, et sicut supra declaratum est (*vide* Charter of 1216, § 5, p. 30).

Charter of 1217, § 40

Omnes patroni abbatiarum, qui habent cartas regum Angliae de advocatione vel antiquam tenuram vel possessionem, habeant earum custodiam cum vacaverint, sicut habere debent, et sicut supra declaratum est.

Patrons of abbeys who have charters of advowson are to have the wardship.

Carta Johannis Regis ut liberae sint electiones totius Angliae (1214)

. . . ut de cetero . . . liberae sint in perpetuum electiones quorumcunque praelatorum majorum et minorum; salva nobis et haeredibus nostris custodia ecclesiarum et monasteriorum vacantium quae ad nos pertinent.

Elections of prelates are to be free saving the rights of wardship of churches and monasteries during vacancies, which are reserved for the Crown.

Petition of the Barons (1258) § 11

Item petunt remedium de abbatiis et prioratibus fundatis de feodis comitum et baronum, unde dominus rex ad vacationem dictarum domorum inde petit custodias, ita quod non possunt eligere sine voluntate domini regis: et hoc est in praejudicium comitum et baronum, cum servitia inde debita domino regi sustineant ut medii.

The King usurps the wardship of abbeys and priories founded on the fiefs of earls and barons, so that they can only appoint at the King's will.

All that has been made forest in John's time shall be disafforested: similarly with regard to the preserving of river banks for purposes of hawking.

47.* Omnes forestae quae afforestatae sunt tempore nostro, statim deafforestentur: et ita fiat de ripariis quae per nos tempore nostro positae sunt in defenso.

Charter of 1216, § 38

Omnes — tempore regis Johannis patris nostri statim — quae per eundem Johannem tempore suo, etc.

Charter of 1217, § 20

The only river banks preserved shall be those preserved in the time of Henry II, and that only for the same portions and the same periods as then.

Nulla riparia de cetero defendatur nisi illae quae fuerunt in defenso tempore Henrici regis avi nostri per eadem loca et eosdem terminos, sicut esse consueverunt tempore suo.

Coronation Charter of Henry I. § 10 (p. 21)

• *Second Charter of Stephen (p. 23)*

Forestas — concedo.

Charter of the Forest (1217)

All woods afforested under Henry II. which injure any private owner shall be disafforested, and even in woods on the King's demesne the freeholders' right of common pasture is to be saved.

§ 1. In primis omnes forestae quas Henricus rex avus noster afforestavit videantur per bonos et legales homines, et si boscum aliquem alium quam suum dominicum afforestaverit ad dampnum illius cujus boscus fuerit, deafforestentur. Et si boscum suum proprium afforestaverit, remaneat foresta, salva communia de herbagio et aliis in eadem foresta illis qui eam prius habere consueverunt.

* * * * *

All woods afforested since the days of Henry II. other than royal demesne shall be disafforested.

§ 3. Omnes autem bosci qui fuerunt afforestati per regem Ricardum avunculum nostrum, vel per regem Johannem patrem nostrum usque ad primam coronationem nostram, statim deafforestentur, nisi fuerit dominicus boscus noster.

Despite the grant made to the Crown in return for the promise of disafforestation, these lands outside the forest have been thrown into it again.

Petition of the Barons (1258) § 7

Item petunt remedium quod bosci et terrae infra metas forestae non existentes, qui per ambulationem proborum hominum, et per quindecimam partem omnium bonorum hominum Angliae domino regi datam, deafforestari fuerunt, per voluntatem suam reafforestavit.

48.* Omnes malae consuetudines de forestis et warennis, et de forestariis et warennariis, vicecomitibus et eorum ministris, ripariis et earum custodibus, statim inquirantur in quolibet comitatu per duodecim milites juratos de eodem comitatu, qui debent eligi per probos homines ejusdem comitatus, et infra quadraginta dies post inquisitionem factam, penitus, ita quod numquam revocentur, deleantur per eosdem, ita quod nos hoc sciamus prius, vel justiciarius noster, si in Anglia non fuerinus.

All evil customs connected with forests, sheriffs, and river banks are to be the subject of an inquiry by a jury elected in each county, and, provided that intimation has been made to the King, they shall be abolished within forty days.

Articles of the Barons, § 39

... et ut pravae consuetudines — per, probos homines ejusdem comitatus.

Writ for Inquiry into Evil Customs (1215)

Rex vicecomiti, warennariis, custodibus ripariarum et omnibus baillivis suis in comitatu, salutem. Sciatis pacem firmam esse reformatam per Dei gratiam inter nos et barones et liberos homines regni nostri, sicut audire poteritis et videre per cartam nostram quam inde fieri fecimus. . . . Volumus etiam et praecipimus quod duodecim milites de comitatu tuo, qui eligentur de ipso comitatu in primo comitatu qui tenebitur post susceptionem literarum istarum in partibus tuis, jurent de inquirendis pravis consuetudinibus tam de vicecomitibus quam eorum ministris, forestis, forestariis, warennis et warennariis, ripariis et earum custodibus, et eis delendis, sicut in ipsa carta continetur. . . .

49.* Omnes obsides et cartas statim red-demus quae liberatae fuerunt nobis ab Anglicis in, securitatem pacis vel fidelis servitii.

The King will restore all hostages and charters taken from Englishmen.

50.* Nos amovebimus penitus de balliis parentes Gerardi de Athyes, quod de cetero nullam habeant balliam in Angliae; Engel-

A special family of foreign favourites are to be removed from office under the Crown.

ardum de Cygoniis, Andream, Petrum et Gyonem de Cancellis, Gyonem de Cygoniis, Galfridum de Martyni et fratres ejus, Philippum Marci et fratres ejus, et Galfridum nepotem ejus, et totam sequelam eorundem.

All foreign soldiers are to be banished.

51.* Et statim post reformationem amovimus de regno omnes alienigenas milites, balistarios, servientes, stipendiarios, qui venerint cum equis et armis ad nocumentum regni.

Petition of the Barons (1258)

The King's castles to be committed to the custody of loyal Englishmen :

§ 4. Item petunt quod castra regis committantur custodienda ad fideles suos et de regno Angliae natos, ob plures casus qui poterunt in regno Angliae evenire vel emergere.

similarly with royal castles guarding harbours on the other side of the channel.

§ 5. Item petunt quod castra regis quae sunt supra portus maris, ubi navigia evenire possunt, committantur fidelibus hominibus de regno Angliae natis, propter pericula plurima evidētia quae emergere possunt si aliis committerentur.

Any one dispossessed of land or rights by John, without legal judgment of his peers, shall be immediately restored to their enjoyment, and disputes shall be decided by the twenty-five barons mentioned below. In the case of those similarly dispossessed by Henry II. or Richard I. the Crown is to have the Crusader's usual respite of three years, except where legal proceedings have already been begun.

52.* Si quis fuerit disseisitus vel elongatus per nos sine legali iudicio parium suorum, de terris, castellis, libertatibus, vel jure suo, statim ea ei restituemus ; et si contentio super hoc orta fuerit, tunc inde fiat per iudicium viginti quinque baronum, de quibus fit mentio inferius in securitate pacis : de omnibus autem illis de quibus aliquis disseisitus fuerit vel elongatus sine legali iudicio parium suorum, per Henricum regem patrem nostrum vel per Ricardum regem fratrem nostrum, quae in manu nostra habemus, vel quae alii tenent quae nos oporteat warrantizare, respectum habebimus usque ad communem terminum

crucesignatorum; exceptis illis de quibus placitum motum fuit vel inquisitio facta per præceptum nostrum, ante susceptionem crucis nostrae; cum autem redierimus de peregrinatione nostra, vel si forte remanserimus a peregrinatione nostra, statim inde plenam justitiam exhibebimus.

Articles of the Barons, § 25

Si quis — per judicium viginti quinque baronum; et ut illi qui fuerint dissaisiti per patrem vel fratrem regis rectum habeant sine dilatione per judicium parium suorum in curia regis; et si rex debeat habere terminum aliorum crucesignatorum, tunc archiepiscopus et episcopi faciant inde judicium ad certum diem, appellatione remota.

Those dispossessed by Henry II. or Richard I. should have immediate redress by judgment of their peers in the King's Court: while John's claim to a Crusader's respite is referred to the prelates for final decision at an early date.

53.* Eundem autem respectum habebimus, et eodem modo, de justicia exhibenda de forestis deafforestandis vel remansuris forestis, quas Henricus pater noster vel Ricardus frater noster afforestaverunt,¹ et de custodiis terrarum quae sunt de alieno feodo, cujusmodi custodias hucusque habuimus occasione feodi quod aliquis de nobis tenuit per servitium militare,² et de abbatiis quae fundatae fuerint in feodo alterius quam nostro, in quibus dominus feodi dixerit se jus habere;³ et cum redierimus, vel si remanserimus a peregrinatione nostra, super hiis conquerentibus plenam justitiam statim exhibebimus.

The Crusader's respite is also granted to John in the case of (a) forests said to have been made by Henry II. and Richard I., (b) wardships claimed under right of prerogative wardship, (c) abbeyes of mcsne lords held during vacancy by the King.

¹ Cf. § 47 (p. 58).

² Cf. § 37 (p. 47).

³ Cf. § 46 (p. 57).

A woman may not institute an appeal for the death of any one other than her husband.

54. Nullus expiatur nec imprisonetur propter appellum foeminae de morte alterius quam viri sui.

Glanvill, De Legibus Angliae XIV. § 3

In the case of murder the only appellant admitted is the nearest relative of the slain man.

In the case of simple homicide, the appellant must be a blood relation, or connected by homage or lordship with the dead man, and is regarded by a legal fiction as an eye-witness. A similar fiction, founded on the oneness of husband and wife, enables a woman to appeal any one for the death of her husband.

Duo autem sunt genera homicidii, unum est quod dicitur Murdrum, quod nullo vidente nullo sciente, clam perpetratur, praeter solum interfectorem et ejus complices, ita quod mox non assequatur clamor popularis juxta assisam super hoc proditam. In hujusmodi autem accusatione non admittitur aliquis nisi fuerit de consanguinitate ipsius defuncti; et tunc ita quod propinquior stirpili remotionem a dirationatione excludat. Est et aliud homicidium quod constat in generali vocabulo et dicitur simplex homicidium. In hoc etiam placito non admittitur aliquis accusator ad probationem, nisi fuerit mortuo consanguinitate conjunctus, vel homagio vel dominio, ita ut de morte loquatur sub visus sui testimonio. Praeterea sciendum quod in hoc placito, mulier auditur accusans aliquem de morte viri sui si de visu loquatur. Quia una caro fuit vir et uxor.

All fines and amercements exacted illegally are to be remitted. disputes shall be decided by a majority of the twenty-five barons, with or without Stephen Langton and assessors chosen by him: but none of the twenty-five shall be judges in a suit in which any of them are concerned.

55.* Omnes fines qui injuste et contra legem terrae facti sunt nobiscum, et omnia amerciamenta facta injuste et contra legem terrae, omnino condonentur, vel fiat inde per judicium viginti quinque baronum de quibus fit mentio inferius in securitate pacis, vel per judicium majoris partis eorundem, una cum praedicto Stephano Cantuariensi archiepiscopo, si interesse poterit, et aliis quos secum ad hoc vocare voluerit: et si interesse non poterit, nihilominus procedat negotium sine eo, ita quod, si aliquis vel aliqui de praedictis viginti quinque baronibus fuerint in simili querela, amoveantur quantum ad hoc judicium, et alii loco eorum per residuos de eisdem viginti

quinque, tantum ad hoc faciendum electi et iurati substituantur.

Articles of the Barons, § 37

Ut fines qui facti sunt pro dotibus, maritagii, haereditatibus, et amerciamentis, injuste et contra legem terrae, omnino condonentur : vel fiat inde — una cum archiepiscopo et aliis quos secum vocare voluerit, ita quod, si aliquis vel aliqui de viginti quinque fuerint in simili querela, amoveantur et alii loco illorum per residuos de viginti quinque substituantur.

All fines exacted illegally for the enjoyment of widows' dowers, marriage portions, inheritances and amercements shall be remitted.

56. Si nos disseisivimus vel elongavimus Walenses de terris vel libertatibus vel rebus aliis, sine legali iudicio parium suorum, in Anglia vel in Wallia, eis statim reddantur ; et si contentio super hoc orta fuerit, tunc inde fiat in marchia per iudicium parium suorum, de tenementis Angliae secundum legem Angliae, de tenementis Walliae secundum legem Walliae, de tenementis marchiae secundum legem marchiae. Idem facient Walenses nobis et nostris.

Welshmen dispossessed by John without legal judgment of their peers shall have immediate redress : disputes shall be decided in the Marches by judgment of peers according to English, Welsh, or March law, according to the situation of the tenement ; the same is demanded of Welshmen in relation to John and his subjects.

Cf. § 52 (p. 60)

57.* De omnibus autem illis de quibus aliquis Walensium disseisitus fuerit vel elongatus sine legali iudicio parium suorum per Henricum regem patrem nostrum vel Ricardum regem fratrem nostrum, quae nos in manu nostra habemus, vel quae alii tenent quae nos oporteat warrantizare, respectum habebimus usque ad communem terminum cruce signatorum, illis exceptis de quibus placitum motum fuit vel inquisitio

In the case of dispossessions made by Henry II. or Richard I. the Crown is to have the Crusader's usual respite of three years, except where legal proceedings have already been begun and ultimately full justice shall be done in accordance with the laws of Wales.

facta per praeceptum nostrum ante susceptionem crucis nostrae ; cum autem redierimus, vel si forte remanserimus a peregrinatione nostra, statim eis inde plenam justitiam exhibebimus, secundum leges Walensium et partes praedictas.

Cf. § 52 and note (p. 60)

The Welsh hostages and charters shall be restored.

58.* Nos reddemus filium Lewelini statim, et omnes obsides de Wallia, et cartas quae nobis liberatae fuerunt in securitatem pacis.

Articles of the Barons, § 45

The matter is referred to the judgment of Stephen Langton and assessors chosen by him.

Nos — pacis, nisi aliter esse debeat per cartas quas rex habet, per iudicium archiepiscopi et aliorum quos secum vocare voluerit.

King Alexander of Scotland's sisters and hostages are to be restored, as is to be done in the case of the other English barons; similarly with regard to his franchise and right so far as accords with the charters of his father, King William, and the judgment of his peers in the English King's Court.

59.* Nos faciemus Alexandro regi Scottorum de sororibus suis, et obsidibus reddendis, et libertatibus suis, et jure suo, secundum formam in qua faciemus aliis baronibus nostris Angliae, nisi aliter esse debeat per cartas quas habemus de Willelmo patre ipsius, quondam rege Scottorum ; et hoc erit per iudicium parium suorum in curia nostra.

Articles of the Barons, § 46

The charters are to be interpreted by Stephen Langton and his chosen assessors.

Ut rex faciat regi Scottorum — baronibus Angliae, nisi aliter esse debeat per cartas quas rex habet, per iudicium archiepiscopi et aliorum quos secum vocare voluerit.

The customs which John undertakes to observe towards his tenants are

60. Omnes autem istas consuetudines praedictas et libertates quas nos concessimus in regno nostro tenendas quantum

ad nos pertinet erga nostros, omnes de regno nostro, tam clerici quam laici, observent quantum ad se pertinet erga suos.

to be observed by all, clergy and laity alike, towards their tenants.

Charter of 1217

§ 45. Omnes — erga suos.

§ 46. Salvis archiepiscopis, episcopis, abbatibus, prioribus, Templariis, Hospitalariis, comitibus, baronibus et omnibus aliis tam ecclesiasticis personis quam saecularibus, libertatibus et liberis consuetudinibus quas prius habuerunt.

Reservation to the archbishops, etc., of all the free customs previously enjoyed.

61. Cum autem pro Deo, et ad emendationem regni nostri, et ad melius sopiendam discordiam inter nos et barones nostros ortam, haec omnia praedicta concesserimus, volentes ea integra et firma stabilitate in perpetuum gaudere, facimus et concedimus eis securitatem subscriptam; videlicet quod barones eligant viginti quinque barones de regno quos voluerint, qui debeant pro totis viribus suis observare, tenere et facere observari, pacem et libertates quas eis concessimus, et hac praesenti carta nostra confirmavimus, ita scilicet quod, si nos, vel justiciarius noster, vel ballivi nostri, vel aliquis de ministris nostris, in aliquo erga aliquem deliquerimus, vel aliquem articulo- rum pacis aut securitatis transgressi fuerimus, et delictum ostensum fuerit quatuor baronibus de praedictis viginti quinque baronibus, illi quatuor barones accedant ad nos vel ad justiciarium nostrum, si fuerimus extra regnum, proponentes nobis excessum, petent ut excessum illum sine dilatione faciamus emendari. Et si nos excessum non emend-

The barons shall choose twenty-five of their number as guardians of the Charter. Any infraction may be notified to four of the twenty-five, and if their remonstrance is not attended to within forty days, the matter shall be referred to the whole twenty-five, who, with the community of the whole land, may force redress in any way except by personal harm to the King, Queen, and children.

Any one who wishes can swear to obey the twenty-five, and any one who will not swear this shall be compelled by the King's own command.

The committee shall fill vacancies in their number by co-optation: they shall make decision by the votes of a majority of those present.

The King, pro-

mises that he will not procure a dispensation from any of these concessions from any one (e.g., from the Pope). Such a dispensation is declared null beforehand.

averimus, vel, si fuerimus extra regnum, justiciarius noster non emendaverit, infra tempus quadraginta dierum¹ computandum a tempore quo monstratum fuerit nobis vel justiciario nostro si extra regnum fuerimus, praedicti quatuor barones referant causam illam ad residuos de viginti quinque baronibus, et illi viginti quinque barones cum communa totius terrae destringent et gravabunt nos modis omnibus quibus poterunt, scilicet per captionem castrorum, terrarum, possessionum, et aliis modis quibus poterunt, donec fuerit emendatum secundum arbitrium eorum, salva persona nostra et reginae nostrae et liberorum nostrorum; et cum fuerit emendatum intendent nobis sicut prius fecerunt. Et quicumque voluerit de terra juret quod ad praedicta omnia exequenda parebit mandatis praedictorum viginti quinque baronum, et quod gravabit nos pro posse suo cum ipsis, et nos publice et libere damus licentiam jurandi cuilibet qui jurare voluerit, et nulli umquam jurare prohibebimus. Omnes autem illos de terra qui per se et sponte sua noluerint jurare viginti quinque baronibus, de distringendo et gravando nos cum eis, faciemus jurare eosdem de mandato nostro, sicut praedictum est. Et si aliquis de viginti quinque baronibus decesserit; vel a terra recesserit, vel aliquo alio modo impeditus fuerit, quominus ista praedicta possent exequi, qui residui

¹ *Articles of the Barons*, § 49

. . . infra rationabile tempus determinandum in carta.

fuerint de praedictis viginti quinque baronibus eligant alium loco ipsius, pro arbitrio suo, qui simili modo erit juratus quo et ceteri. In omnibus autem quae istis viginti quinque baronibus committuntur exequenda, si forte ipsi viginti quinque praesentes fuerint, et inter se super re aliqua discordaverint, vel aliqui ex eis summoniti nolint vel nequeant interesse, ratum habeatur et firmum quod major pars eorum qui praesentes fuerint providerit, vel praeceperit, ac si omnes viginti quinque in hoc consensissent : et praedicti viginti quinque jurent quod omnia antedicta fideliter observabunt, et pro toto posse suo facient observari.¹ Et nos nihil impetrabimus ab aliquo, per nos nec per alium, per quod aliqua istarum concessionum et libertatum revocetur vel minuatur ; et si aliquid tale impetratum fuerit, irritum sit et inane et numquam eo utemur per nos nec per alium.

62.* Et omnes malas voluntates, indignationes, et rancores ortos inter nos et homines nostros, clericos et laicos, a tempore discordiae, plene omnibus remisimus et condonavimus. Praeterea omnes transgressionem factas occasione ejusdem discordiae, a Pascha anno regni nostri sextodecimo

The King remits and pardons all ill-will and all trespasses due to the quarrel, and instructs the issue by the bishops of suitable letters patent embodying the terms of the Charter.

¹ *Articles of the Barons*, § 49

. . . facient observari. Praeterea rex faciet eos securos per cartas archiepiscopi et episcoporum et magistri Pandulfi, quod nihil impetrabit a domino papa per quod aliqua istarum conventionum revocetur vel minuatur, et, si aliquid tale impetraverit, reputetur irritum et inane et nunquam eo utatur.

usque ad pacem reformatam, plene remissimus omnibus, clericis et laicis, et quantum ad nos pertinet plene condonavimus. Et insuper fecimus eis fieri litteras testimoniales patentes¹ domini Stephani Cantuariensis archiepiscopi, domini Henrici Dublinensis archiepiscopi, et episcoporum praedictorum, et magistri Pandulfi, super securitate ista et concessionibus praefatis.

Final promise of freedom to the Church and liberties to all men. Both King and barons have taken an oath in good faith to keep the terms of the Charter.

63.* Quare volumus et firmiter praecipimus quod Anglicana ecclesia libera sit et quod homines in regno nostro habeant et teneant omnes praefatas libertates, jura, et concessionem, bene et in pace, libere et quiete, plene et integre, sibi et haeredibus suis, de nobis et haeredibus nostris, in omnibus rebus et locis, in perpetuum, sicut praedictum est. Juratum est autem tam ex parte nostra quam ex parte baronum, quod haec omnia supradicta bona fide et sine

¹ Omnibus Christi fidelibus ad quos praesens scriptum pervenerit, Stephanus Dei gratia Cantuariensis archiepiscopus, totius Angliae primas et sanctae Romanae ecclesiae cardinalis, Henricus eadem gratia Dublinensis archiepiscopus, Willelmus Londoniensis, Petrus Wintoniensis, Joscelinus Bathoniensis et Glastoniensis, Hugo Lincolnensis, Walterus Wigorniensis, Willelmus Coventriensis et Benedictus Roffensis, divina miseratione episcopi, et magister Pandulfus domini papae subdiaconus et familiaris, salutem in Domino. Sciatis nos inspexisse cartam quam dominus Johannes illustris rex Angliae fecit comitibus, baronibus et liberis hominibus suis Angliae de libertate sanctae ecclesiae et libertatibus et liberis consuetudinibus suis eisdem ab eo concessis sub hac forma [text of John's Magna Carta]. Et ne huic formae praedictae aliquid possit addi vel ab eadem aliquid possit substrahi vel minui, huic scripto sigilla nostra apposuimus.

malo ingenio observabuntur. Testibus supradictis et multis aliis. Data per manum nostram in prato quod vocatur Ronimede, inter Windlesoram et Stanes, quinto decimo die Junii, anno regni nostri decimo septimo.

III

CHURCH AND STATE BEFORE THE REFORMATION

The Constitutions of Clarendon (1164)

This is a record of some of the customs of the King's ancestors which the Archbishops and Bishops promised verbally to observe in the presence of a number of earls and other barons.

ANNO ab Incarnatione Domini MCLXIV, papatus Alexandri anno iv^{to}, illustrissimi regis Anglorum Henrici secundi anno decimo, in praesentia ejusdem regis, facta est ista recordatio vel recognitio cujusdam partis, consuetudinum et libertatum et dignitatum antecessorum suorum, videlicet regis Henrici avi sui, et aliorum quae observari et teneri debent in regno. Et propter dissensiones et discordias quae emeruerant inter clerum et Justitias domini regis et barones regni de consuetudinibus et dignitatibus, facta est ista recordatio coram archiepiscopis et episcopis et clero et comitibus et baronibus et proceribus regni. Et easdem consuetudines recognitas per archiepiscopos et episcopos et comites et

CONSTITUTIONS OF CLARENDON 71

barones et per nobiliores et antiquiores regni [the two archbishops and twelve bishops] concesserunt, et in Verbo Veritatis viva voce firmiter promiserunt tenendas et observandas, domino regi et haeredibus suis, bona fide et absque malo ingenio, praesentibus istis [ten earls and twenty-eight other lay witnesses by name] et multis aliis proceribus et nobilibus regni, tam clericis quam laicis.

Consuetudinum vero et dignitatum regni recognitarum quaedam pars praesenti scripto continetur. Cujus partis capitula haec sunt ;

1. De advocatione et praesentatione ecclesiarum si controversia emergerit inter laicos, vel inter laicos et clericos, vel inter clericos, in curia domini regis tractetur vel terminetur.

Disputes about advowsons to be heard in the King's Court.

2. Ecclesiae de feudo domini regis non possunt in perpetuum dari absque assensu et concessione ipsius.

The King's churches only to be granted with his assent.

Magna Carta (1217), § 43 (p. 55)

Petition of the Barons (1258), § 10 (p. 121)

Provisions of Westminster (1259), § 14 (p. 121)

Statute of Mortmain (de Viris Religiosis) (1279) (p. 56)

3. Clerici rettati et accusati de quacunque re, summoniti a Justitia regis venient in curiam ipsius, responsuri ibidem de hoc unde videbitur curiae regis quod ibidem sit respondendum ; et in curia ecclesiastica, unde videbitur quod ibidem sit respondendum ; ita quod Justitia regis mittet in

Justiciar to decide whether matter in which a clerk is concerned should be tried in King's Court or ecclesiastical court. If in the latter, Justiciar to have oversight. Church not to defend criminal clerk.

curiam sanctae ecclesiae ad videndum quare ratione res ibi tractabitur. Et si clericus convictus vel confessus fuerit, non debet de cetero eum ecclesia tueri.

Ordinance of William I. Separating the Spiritual and Temporal Courts

No ecclesiastical plea to be held in the Hundred Court, but at the place appointed by the bishop, and according to ecclesiastical law. Attendance to be enforced by the secular authority.

No layman, official, or other, to interfere with ecclesiastical laws or court.

. . . ut nullus episcopus vel archidiaconus de legibus episcopalibus amplius in hundred placita teneant, nec causam quae ad regimen animarum pertinet ad iudicium secularium hominum adducant, sed quicumque secundum episcopales leges, de quacunque causa vel culpa interpellatus fuerit, ad locum quem ad hoc episcopus elegerit vel nominaverit veniat, ibique de causa vel culpa sua respondeat, et non secundum hundred, sed secundum canones et episcopales leges, rectum Deo et episcopo suo faciat. Si vero aliquis per superbiam elatus ad iustitiam episcopalem venire contempserit vel noluerit, vocetur semel, secundo et tertio; quod si nec sic ad emendationem venerit, excommunicetur, et si opus fuerit ad hoc vindicandum, fortitudo et iustitia regis vel vicecomitis adhibeatur. Ille autem qui vocatus ad iustitiam episcopi venire voluerit pro unaquaque vocatione legem episcopalem emendabit. Hoc etiam defendo, et mea auctoritate interdicto, ne ullus vicecomes aut praepositus seu minister regis, nec aliquis laicus homo, de legibus quae ad episcopum pertinent se intromittat, nec aliquis laicus homo alium hominem sine iustitia episcopi ad iudicium adducat. Iudicium vero in nullo loco portetur, nisi in episcopali sede aut in illo loco quem ad hoc episcopus constituerit.

Materials for the History of Becket, Vol. IV. pp. 202-203

Summa causae inter Regem et Thomam

The King demands of the Church that criminal clerks shall be unfrocked and handed over to lay authority to be punished, the Church helping the lay authority to secure the clerk from escape.

Rex . . . inquit . . . Peto igitur et volo, ut tuo, domine Cantuariensis, et coepiscoporum tuorum consensu clerici in maleficiis deprehensi vel confessi exauctorentur illico, et mox curiae meae lictoribus tradantur, ut omni defensione ecclesiae destituti, corporaliter perimantur. Volo etiam et peto ut in illa exauctorazione de meis officialibus aliquem interesse consentiatis, ut exauctoratum clericum mox comprehendat, nequa ei fiat copia corporalem vindictam effugiendi. . . .

Dominus vero Cantuariensis, sacris canonibus consentiens, in contrarium allegabat, asserens omnino injustum fore et contra canones et contra Deum, si ob unius punitionem delicti duo quis subeat judicia. "Nec enim Deus judicat bis in idipsum." "Quod enim," inquit, "judicat ecclesia, aut justum est aut injustum; sed non dabis injustum; erit ergo justum. Quod, cum non contineat absolutionem, continet damnationem. Si ergo damnatur reus, dum exactoratur, non debet aliud iudicium inchoari ad ejusdem condemnationem peccati. Ad haec quoque cavendum est," inquit, "ne nostro consensu opprimatur et pereat libertas ecclesiae, pro qua, exemplo summi Sacerdotis nostri, ex officio tenemur usque ad mortem certare."

The Archbishop answers that it is contrary to justice and the Canon Law that a man should be punished twice for the same offence. The judgment of the Church is just, and does not absolve. Moreover the Church is sworn to defend its liberties even to the death.

4. Archiepiscopis, episcopis et personis regni non licet exire de regno absque licentia domini regis. Et si exierint, si domino regi placuerit, assecurabunt quod nec in eundo nec in moram faciendo nec in redeundo, perquirent malum vel damnum regi vel regno.

Ecclesiastics only to leave kingdom with the King's leave, and then to give security to seek no hurt to the King.

Oath of Henry II. on Absolution (Hoveden, ii. 35, Benedictus Abbas, i. 32)

Juravit etiam quod nec appellationes impediret neque impediri permetteret, quin libere fieret in regno suo ad Romanum pontificem, in ecclesiasticis causis: sic tamen ut si ei suspecti fuerint aliqui, securitatem faciant quod malum suum vel regni sui non quaerant.

He would not hinder appeals to Rome so long as security was given that no harm was intended to him or the kingdom.

5. Excommunicati non debent dare vadium ad remanens, nec praestare iuramentum, sed tantum vadium et plegium standi iudicio ecclesiae ut absolvantur.

Excommunicates only to give security of abiding by Church's judgment, with a view to absolution.

Ordinance of William I. Separating the Spiritual and Temporal Courts (p. 72)

Si vero aliquis per superbiam elatus — fortitudo et justitia regis vel vicecomitis adhibeatur.

Laymen accused of ecclesiastical offence to be tried if necessary by jury empanelled by sheriff.

6. Laici non debent accusari nisi per certos et legales accusatores et testes in praesentia episcopi, ita quod archidiaconus non perdat jus suum, nec quicquid quod inde habere debeat. Et si tales fuerint qui culpantur, quod non velit vel non audeat aliquis eos accusare, vicecomes requisitus ab episcopo faciet jurare duodecim legales homines de vicineto seu de villa coram episcopo, quod inde veritatem secundum conscientiam suam manifestabunt.

Writ of Henry III. (1246) (Matthew Paris, Chron. Maj. iv. 580)

A jury is forbidden in the ecclesiastical courts except in cases concerning marriages and wills.

Henricus Dei gratia rex Angliae, etc. Praecipimus tibi, quod sicut teipsum et animam tuam diligis, non permittas quod aliqui laici de balliva tua ad voluntatem episcopi Lincolniensis archidiaconorum vel officialium seu decanorum ruralium in aliquo loco conveniant de cetero, ad recognitiones per sacramentum eorum vel attestaciones aliquas faciendas, nisi in causis matrimonialibus vel testamentariis.

The King's leave necessary for excommunication of tenant-in-chief or interdict on his lands, the rights of lay and ecclesiastical courts respectively being preserved.

§ 7. Nullus qui de rege tenet in capite nec aliquis dominicorum ministrorum ejus excommunicetur, nec terrae alicujus illorum sub interdicto ponantur, nisi prius dominus rex, si in terra fuerit, conveniatur vel Justitia ejus, si fuerit extra regnum, ut rectum de ipso faciat : et ita quod pertinebit ad curiam regiam ibidem terminetur, et de eo quod spectabit ad ecclesiasticam curiam, ad eandem mittatur ut ibidem tractetur.

William I.'s Rules of Dealing with Rome (Eadmer, Hist. Nov. p. 10)

No tenant or servant of the Crown, whatever

3. Nulli nihilominus episcoporum suorum concessum iri permittebat, ut aliquem de baronibus suis seu

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ministris, siue incesto sive adulterio sive aliquo capitali crimine denotatum, publice nisi ejus praecepto implacitaret, aut excommunicaret aut ulla ecclesiastici rigoris poena constringeret.

his offence, can be charged or punished by an ecclesiastical court without the King's leave.

8. De appellationibus si emergerint, ab archidiacono debent procedere ad episcopum, ab episcopo ad archiepiscopum. Et si archiepiscopus defecerit in justitia exhibenda, ad dominum regem perveniendum est postremo, ut praecepto ipsius in curia archiepiscopi controversia terminetur, ita quod non debet ulterius procedere absque assensu domini regis.

Ecclesiastical appeals must go from archdeacon to bishop, and then to archbishop, who must rehear them if necessary, at the King's command. No further appeal without the King's leave.

Statute of Praemunire, 27 Edward III. stat. i. cap i. (1353)

Primerelement parceque monstree est a nostre seigneur le Roi par grevous et clamous pleintes des grantz et comunes, coment plusours gentz sont et ount este traites hors du roialme, a respondre des choses dount la conaissance appartient a la Court nostre seigneur le Roi; et aussint que les juggementz, renduz en meisme la Court, sont empeschez en autrui Court en prejudice et desheritson nostre seigneur le Roi et de sa corone, et de tout la poeple de son dit roialme, et en defesance et anientissement de la comune lei de meisme le roialme usee de tout temps: sur quoi eue bone deliberacion od les grantz et autres du dit conseil, assentu est et acorde, par nostre dit seigneur le Roi et les grantz et comunes susditz, que totes gentz de la ligeance le Roi, de quele condicion qils soient, qi trehent nulli hors du Roialme, en plee dount la conaissance appertient a la Court le Roi ou des choses dount juggementz sont renduz en la Court le Roi, ou q'i suent en autrui Court a deffaire ou empescher les juggementz renduz en la Court le Roi, eient jour contenant l'espace de deux mois, pour garnissement affaire a eux en la lieu ou les possessions sont qi sont en debat, ou aillours ou ils avront terres ou autre possessions, par le Viscont ou autre ministre du Roi, destre devant le Roi et son conseil, ou en sa Chancellerie, ou devant les Justices

Since complaint has been made that people are called out of the realm to answer in matters cognisable in the King's Court, and that judgments given there are impeached elsewhere, it is enacted that those so summoning or impeaching shall answer before the King in one of his courts under penalty of forfeiture and outlawry for default.

le Roi en ses places del un Baunk ou del autre, ou devant autres Justices le Roi qi seront a ce deputez, a respondre en leur propres persones au Roi du contemp fait en celle partie ; et sil ne veignent mie au dit jour en propre persone de esteer a la lei, soient ils, leur procuratours, attournez, executours, notairs et meintenours, de cel jour enavant mis hors de la protection le Roi et leur terres, biens, et chateux forfaitz au Roi, et soient leur corps ou qils soient trovez, pris et emprisonnez et reintz a la volonte le Roi ; et sur ce soit brief fait de les prendre par leur corps, et de seisir leur terres, biens et possessions en la main le Roi ; et si retourne soit qils ne sont mie trovez soit mie en exigence et utlaghez.

Assize Utrum.
Dispute whether
land is frank
almoyn or lay
fee to be decided
by jury before
Justiciar. If
claim is allowed
it shall be
pleaded in
Church Court,
otherwise in lay
court. If both
claimants hold
of same bishop
or baron, case to
be pleaded in his
court.

9. Si calumnia emerserit inter clericum et laicum, vel inter laicum et clericum, de ullo tenemento quod clericus ad eleemosinant velint attrahere, laicus vero ad laicum feudum, recognitione duodecim legalium hominum, per capitalis Justitiae regis considerationem terminabitur, utrum tenementum sit pertinens ad eleemosinam sive ad laicum feudum, coram ipso Justitia regis. Et si recognitum fuerit ad eleemosinam pertinere, placitum erit in curia ecclesiastica, si vero ad laicum feudum, nisi ambo de eodem episcopo vel barone advocaverint, erit placitum in curia regia. Sed si uterque advocaverit de feudo illo ante eundem episcopum vel baronem, erit placitum in curia ipsius ; ita quod propter factam recognitionem seisinam non amittat, qui prior seisitus fuerat, donec per placitum dirationatum fuerit.

Writ for holding an Assize Utrum (Glanvill, De Leg. Angl. xiii. 24)

Rex Vicecomiti salutem : Summone per bonos summoneitores duodecim liberos et legales homines de visineto

de illâ villâ, quod sint coram me vel Justiciis meis ea die parati sacramento recognoscere, utrum una hida terrae, quam N. persona ecclesiae de illâ villâ clamat ad liberam eleemosinam ipsius ecclesiae suae versus R. in illâ villâ, sit laicum feodum ipsius R. an feodum ecclesiasticum. Et interim terram videant, et nomina eorum imbrevari facias. Et summane per bonos summonitores praedictum R. qui terram illam tenet, quod tunc sit ibi auditurus illam recognitionem. Et habeas ibi summonitores et hoc breve.

Writ of Prohibition to Ecclesiastical Judges
(Glanvill, *Ibid.* xii. 21)

Rex illis Judicibus ecclesiasticis salutem ; Prohibeo vobis ne teneatis placitum in Curia Christianitatis quod est inter N. et R. de laico feodo praedicti R. ; unde ipse queritur quod N. eum trahit in placitum in Curia Christianitatis coram vobis, quia placitum illud spectat ad coronam et dignitatem meam.

Letter of Pope Alexander III. (1178) (Ralph de Diceto, i. 427)

Alexander papa Londoniensi et Wintonensi episcopis. Nos attendentes quod ad regem pertineat, non ad ecclesiam, de possessionibus judicare, ne videamur juri et dignitati karissimi in Christo filii nostri Henrici illustris Anglorum regis detrahere, qui sicut accepimus commotus est et turbatur, quod de possessionibus scripsimus, cum earum judicium ad se asserat pertinere, volumus et fraternitati vestrae mandamus, ut regi possessionum judicium relinquatis. Data Tusculani Kalendis Octobris.

The Bishops are not to interfere with the King's jurisdiction.

10. Qui de civitate vel castello vel burgo vel dominico manerio domini regis fuerit, si ab archidiacono vel episcopo super aliquo delicto citatus fuerit, unde debeat eisdem respondere et ad citationes eorum satisfacere noluerit, bene licet eum sub interdicto ponere, sed non debet excommunicari priusquam capitalis minister domini regis

Excommunication of inhabitant of royal city, castle, borough, or manor is lawful with leave of royal officer, who shall be punished if he neglect his duty.

villae illius conveniatur, ut justiciet eum ad satisfactionem venire. Et si minister regis inde defecerit, ipse erit in misericordia domini regis, et exinde poterit episcopus ipsum accusatum ecclesiastica justitia cohibere.

Ecclesiastical tenants-in-chief are answerable to King's Justiciar, and shall take part in matters before King's Court except in judgments of limb, or life.

11. Archiepiscopi, episcopi et universae personae regni, qui de rege tenent in capite, habent possessiones suas de domino rege sicut baroniam, et inde respondent Justitiis et ministris regis, et sequuntur et faciunt omnes rectitudines et consuetudines regias, et, sicut barones ceteri, debent interesse judiciis curiae domini regis cum baronibus, usque dum perveniatur in judicio ad diminutionem membrorum vel mortem.

Vacant bishopric or royal abbey returns to King's hands. New holder to be elected in King's chapel, and do homage before consecration.

12. Cum vacaverit archiepiscopatus vel episcopatus vel abbatia vel prioratus de dominio regis, debet esse in manu ipsius et inde percipiet omnes redditus et exitus sicut dominicos. Et quum ventum fuerit ad consulendum ecclesiae, debet dominus rex mandare potiores personas ecclesiae et in capella ipsius domini regis debet fieri electio assensu domini regis et consilio personarum regni, quos ad hoc faciendum vocaverit. Et ibi faciet electus homagium et fidelitatem domino regi sicut ligio domino, de vita sua et de membris et de honore suo terreno, salvo ordine suo, priusquam sit consecratus.

Coronation Charter of Henry I. § 1 (p. 19)

Second Charter of Stephen (p. 23)

Nihil me in ecclesia — conservaturum eis promitto.

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The Compromise on Investitures between Henry I. and Anselm (1107) (Flor. Wig.)

Annuit rex et statuit, ut ab eo tempore in reliquum, nunquam per dationem baculi pastoralis vel annuli quisquam de episcopatu aut abbatia per regem vel quamlibet laicam manum in Anglia investiretur; concedente quoque Anselmo ut nullus in praelationem electus, pro hominio quod regi faceret, consecratione suscepti honoris privaretur.

The King will not invest with the pastoral staff and the ring: the archbishop will not ~~refuse~~ consecration to one who after election has done homage.

Second Charter of Stephen (p. 24)

Dum vero sedes propriis pastoribus—canonice substituantur.

Glanvill, De Legibus Angliae, ix. i.

Potest autem homo liber masculus homagium facere, tam is qui aetatem habet, quam is qui infra aetatem est, tam clericus quam laicus. Episcopi vero consecrati homagium facere non solent Domino regi etiam de baroniis suis, sed fidelitatem cum juramenti interpositis ipsi praestare solent. Electi vero in episcopos ante consecrationem suam homagia sua facere solent.

A layman does homage; a bishop does fealty; a newly-elected bishop does homage before he is consecrated

13. Si quisquam de proceribus regni defortiauerit archiepiscopo, vel episcopo, vel archidiacono, de se vel de suis justitiam exhibere, dominus rex debet eos justiciare. Et si forte aliquis defortiauerit domino regi rectitudinem suam, archiepiscopi et episcopi et archidiaconi debent eum justiciare ut domino regi satisfaciat.

King and ecclesiastics are mutually to help in bringing violators of right to justice.

14. Catalla eorum qui sunt de forisfacto regis non detineat ecclesia vel cimiterium contra justitiam regis, quia ipsius regis sunt, sive in ecclesiis sive extra fuerint inventa.

Goods of felons, even if under protection of the Church, belong to the King.

15. Placita de debitis quae fide interposita debentur, vel absque interpositione fidei, sint in justitia regis.

Pleas of debt under all circumstances belong to the King.

Glanvill, De Legibus Angliae, x. 12

Die autem statuta debitore apparente in Curia, creditor ipse si non habeat inde vadium neque plegios neque aliam diracionationem nisi solam fidem, nulla est haec probatio in Curia domini regis. Verum tamen de fidei lesione vel transgressione inde agi poterit in Curia Christianitatis. Sed Judex ipse ecclesiasticus, licet super crimine tali possit cognoscere et convicto penitentiam vel satisfactionem injungere; placita tamen de debitis laicorum vel de tenementis in Curia Christianitatis per Assisam regni, ratione fidei interpositae, tractare vel terminare non potest.

Villans born
can only be
ordained with
leave of them
lord

16. Filii rusticorum non debent ordinari absque assensu domini de cujus terra noti dignoscuntur.

Facta est autem praedictarum consuetudinum et dignitatum recordatio regiarum a praefatis archiepiscopis et episcopis et comitibus et baronibus et nobilioribus et antiquioribus regni, apud Clarendonam quarto die ante Purificationem Beatae Mariae perpetuae Virginis, domino Henrico cum patre suo domino rege ibidem praesente. Sunt autem et aliae multae et magnae consuetudines et dignitates sanctae matris ecclesiae et domini regis et baronum regni, quae in hoc scripto non continentur. Quae salvae sint sanctae ecclesiae et domino regi et haeredibus suis et baronibus regni, et in perpetuum inviolabiliter observentur.

IV

JUSTICE AND POLICE

The Assize of Clarendon (1166)

INCIPIT Assisa de Clarenduna facta a rege Henrico, scilicet secundo, de assensu archiepiscoporum, episcoporum, abbatium, comitum, baronum totius Angliae.

§ 1. In primis statuit praedictus rex Henricus de consilio omnium baronum suorum, pro pace servanda et justitia tenenda, quod per singulos comitatus inquiratur, et per singulos hundredos, per duodecim legaliores homines de hundredo et per quatuor legaliores homines de qualibet villata, per sacramentum quod ibi verum dicent : si in hundredo suo vel villata sua sit aliquis homo qui sit rettatus vel publicatus quod ipse sit robator vel murdrator vel latro vel aliquis qui sit receptor robatorum vel murdratorum vel latronum, postquam dominus rex fuit rex. Et hoc inquirent Justitiae coram se, et vicecomites coram se.

Inquests by jury for criminal purposes before justices and sheriffs respectively.

Assize of Northampton, § 1 (p. 86)

Si quis retatus — et infra quadraginta dies a regno exulet.

Any one presented to go to ordeal.

§ 2. Et qui inveniatur per sacramentum praedictorum rettatus vel publicatus quod fuerit robator vel murdrator vel latro vel receptor eorum postquam dominus rex fuit rex, capiatur et eat ad juisam aquae et juret quod ipse non fuit robator vel murdrator vel latro vel receptor eorum postquam dominus rex fuit rex, de valentia quinque solidorum quod sciat.

Æthelstan, Council of Greatanleage, § 23 (p. 8)

A lord may get his man out on bail until the ordeal.

§ 3. Et si dominus ejus qui captus fuerit vel dapifer ejus vel homines ejus requisierint eum per plegium infra tertium diem postquam captus fuerit, replegiatur ipse et catalla ejus donec ipse faciat legem suam.

Sheriffs and justices to arrange for the hearing of a case by the justices;

§ 4. Et quando robator vel murdrator vel latro vel receptores eorum capti fuerint per praedictum sacramentum, si Justitiae non fuerint tam cito venturae in illum comitatum ubi capti fuerint, vicecomites mandent propinquiore Justitiae per aliquem intelligentem hominem, quod tales homines ceperint; et Justitiae remandabunt vicecomitibus ubi voluerint quod illi ducantur ante illos; et vicecomites illos ducant ante Justitias; et cum illis ducant de hundredo et de villata ubi capti fuerint, duos legales homines ad portandum recordationem comitatus et hundredi quare capti fuerint, et ibi ante Justitiam facient legem suam.

two men to bear the record of the shire and hundred.

§ 5. Et de illis qui capti fuerint per praedictum sacramentum hujus Assisae, nullus habeat curiam vel justitiam nec catalla nisi dominus rex in curia sua coram Justitiis ejus et dominus rex habebit omnia catalla eorum. De illis vero qui capti fuerint aliter quam per hoc sacramentum, sit sicut esse solet et debet.

Only King's Court to judge men so presented. The King to have chattels.

§ 6. Et vicecomites qui eos ceperint ducant eos ante Justitiam sine alia summonitione quam inde habeant. Et cum robatores vel murdratores vel latrones et receptores eorum qui capti fuerint per sacramentum vel aliter, tradantur vicecomitibus et ipsi recipiant eos statim sine dilatione.

Sheriffs to be responsible for custody, and to provide for immediate trial.

§ 7. Et in singulis comitatibus ubi non sunt gaiolae, fiunt in burgo vel aliquo castello regis de denariis regis et bosco ejus si prope fuerit, vel de alio bosco propinquo, per visum servientium regis, ad hoc ut vicecomites in illis possint illos qui capti fuerint per ministros qui hoc facere solent et per servientes suos, custodire.

Provision of jails.

Assize of Northampton, § 12 (p. 93)

§ 8. Vult etiam dominus rex quod omnes veniant ad comitatus ad hoc sacramentum faciendum, ita quod nullus remaneat pro libertate aliqua quam habeat, vel cura vel soca quam habuerit, quin veniant ad hoc sacramentum faciendum.

No franchise to excuse from taking the oath in connection with jury of presentment.

Pipe Roll of Henry I.

Judices et Juratores Eboraciscire debent c. libra ut non amplius sint Judices nec Juratores.

Sheriff to view
frankpledges,
even in fran-
chises.

§ 9. Et non sit aliquis infra castellum vel extra castellum, nec etiam in honore de Walingeford, qui vetet vicecomites intrare in curiam vel terram suam ad videndos francos plegios, et quod omnes sint sub plegiis: et ante vicecomites mittantur sub libero plegio.

Laws of William I. § 25

Every freeman
to be in frank-
pledge.

De francplegio. Omnis qui sibi vult justiciam exhiberi vel se pro legali et justiciabili haberi, sit in francplegio.

Willelmi Articuli X. § 8

The fellow-
pledges must at
need pay the
claim and purge
themselves of
complicity.

Omnis homo qui voluerit se tenere pro libero sit in plegio, ut plegius teneat et habeat illum ad justiciam, si quid offenderit; et si quisquam talium evaserit, videant plegii, ut simpliciter solvant quod calumniatum est, et purgent se, quia in evaso nullam fraudem noverunt.

Leges Edwardi Confessoris (? 1130-1135), § 20

Formation of
the frankpledges
and their method
of working.

Alia est pax maxima, per quam omnes firmiori statu sustentantur, scilicet sub fidejussionis stabilitate, quam Angli vocant *frithborgas*, praeter Eboracenses, qui vocant eam *tyen manna tale*, hoc est numerum x hominum. Et hoc est, quod de omnibus villis totius regni sub decennali fidejussione debebant omnes esse, ita quod, si unus ex decem forisfaceret, novem haberent eum ad rectum. Quod si aufugeret, et dicerent, quod non possent habere eum ad rectum, daretur eis terminus a justitia regis triginta dierum et unius diei. Et si possent eum invenire, adducerent eum ad justitiam. Ipse quidem de suo restauret damnum quod fecerat; et de corpore suo fiat justitia, si ad hoc forisfecit. Si autem infra supradictum terminum inveniri non poterit, quia in omni *friborge* unus erat capitalis, quem ipsi vocabant *friborges heved*, ipse capitalis acciperet duos de melioribus in suo *friborge* et de tribus *friborgis* propinquiorebus vicinis suis accipiat de unoquoque capitalem et duos similiter de melioribus, si poterit eos habere, et se duodecimo expurget se et *friborgum* suum, si facere poterit, de forisfacto et fuga supradicti malefactoris. Quod si facere non poterit, restaurarent damnum, quod ipse fecerat, de proprio

forisfactoris, quantum duraverit, et de suo; et erga justitiam emendent, secundum quod legaliter judicatum fuerit eis. Et tamen sacramentum, quod non potuerunt complere per vicinos, per se ipsos novem jurent: se immunes. Et si aliquando potuerint eum recuperare, aut adducunt eum ad justitiam, si potuerint, aut dicent justicie, ubi sit.

§ 10. Et in civitatibus vel burgis nullus habeat homines vel recipiat in domo sua vel terra sua vel soca sua, quos non in manu capiat quod eos habebit coram Justitia si requisiti fuerint, vel sint sub franco-plegio.

Responsibility of those who harbour strangers.

§ 11. Et nulli sint in civitate vel burgo vel castello vel extra, nec in honore etiam de Walingeford, qui vetent vicecomites intrare in terram suam vel socam suam ad capiendum illos qui rettati fuerint vel publicati quod sint robatores vel murdratores vel latrones vel receptores eorum, vel utlagati vel rettati de foresta; sed praecipit quod juvent illos ad capiendum eos.

Sheriff can arrest suspects even in franchises.

All must help in their capture.

§ 12. Et si aliquis fuerit captus qui fuerit saisiatus de roberia vel latrocinio, si ipse fuerit diffamatus et habeat malum testimonium de publicamento, et non habeat warrantum, non habeat legem. Et si non fuerit publicatus, pro saisina quam habeat, eat ad aquam.

No mercy to open-handed malefactors.

§ 13. Et si aliquis fuerit recognoscens coram legalibus hominibus vel hundredis de roberia vel murthero vel latrocinio vel de receptione eorum, et postea negare voluerit, non habeat legem.

Confession of crime cannot be recalled.

Persons of ill-fame not condemned by ordeal, shall nevertheless go into banishment

§ 14. Vult etiam dominus rex quod ipsi qui facient legem suam et mundi erunt per legem, si ipsi fuerint de pessimo testimonio, et publice et turpiter diffamati testimonio multorum et legalium hominum, foras jurent terras regis, ita quod infra octo dies mare transibunt nisi aura eos detinuerit; et cum prima ora quam habebunt postea mare transibunt et ultra in Angliam non revertentur nisi per misericordiam domini regis; et ibi sint utlagati et si redierint; et si redierint capiantur sicut utlagati.

Assize of Northampton, § 1 (p. 89)

Et si ad aquam mundus fuerit — regnum abjuret in misericordia domini regis.

If vagabonds linger in one place,

§ 15. Et prohibet dominus rex ne aliquis vaivus, id est vagus vel ignotus, hospitetur alicubi nisi in burgo, et ibi non hospitetur nisi una nocte, nisi ibi infirmetur, vel equus ejus, ita quod monstrare possit monstrabile essonium.

they are to be arrested until security is obtained

§ 16. Et si ibi fuerit plusquam una nocte, capiatur ille et teneatur donec dominus ejus venerit ad eum plegiandum, vel donec ipse habeat salvos plegios; et ille similiter capiatur qui hospitatus fuerit.

Assize of Northampton, § 2 (p. 89)

Sheriffs to co-operate in arrest of suspects.

§ 17. Et si aliquis vicecomes mandaverit alii vicecomiti quod homines fugerint de comitatu suo in alium comitatum pro roberia vel pro murthero vel latrocinio vel receptione eorum, vel pro utlagia vel pro

retta forestae regis, ille capiat eos ; et etiam si per se vel per alios sciat quod tales homines fugerint in comitatum suum, capiat eos et custodiat donec de eis habeat salvos plegios.

§ 18. Et omnes vicecomites faciant imbrevari omnes fugitivos, qui fugerint de suis comitatibus ; et hoc faciant coram comitatibus, et illorum nomina scripta portabunt ante Justitias cum primo ad illos venerint, ut illa quaerantur per totam Angliam, et eorum catalla capiantur ad opus regis.

Provisions for tracing fugitives.

§ 19. Et vult dominus rex quod ex quo vicecomites susceperint summonitiones Justitiarum errantium, ut ipsi cum comitatibus suis sint ante illos, ipsi congregabunt comitatus suos et inquirent omnes qui de novo venerint in suos comitatus post hanc assisam ; et illos mittent per plegios, quod erunt coram Justitiis, vel illos custodient, donec Justitiae ad eos venerint, et tunc habebunt coram Justitiis.

Recent immigrants to be discovered and dealt with.

§ 20. Prohibet etiam dominus rex ne monachi vel canonici vel aliqua domus religionum recipiant aliquem de populo minuto in monachum vel canonicum vel fratrem, donec sciatur de quali testimonio ipse fuerit, nisi ipse fuerit infirmus ad mortem.

Limitation on villans becoming ecclesiastics.

Constitutions of Clarendon, § 16 (p. 80)

§ 21. Prohibet etiam dominus rex quod nullus in tota Anglia receptet in terra sua vel soca sua vel domo sub se, aliquem de

No one to harbour a sect of heretics.

secta illorum renegatorum qui excommunicati et signati fuerunt apud Oxeneforde. Et si quis eos receperit, ipse erit in misericordia domini regis ; et domus, in qua illi fuerint, portetur extra villam et comburatur. Et hoc jurabit unusquisque vicecomes quod hoc tenebit, et hoc jurare faciet omnes ministros suos et dapiferos baronum et omnes milites et franco-tenentes de comitatibus.

This assize to last during the King's pleasure.

§ 22. Et vult dominus rex quod haec assisa teneatur in regno suo quamdiu ei placuerit.

Assize of Northampton, § 1 (p. 89)

Haec autem assisa atenebit — sicut de equis et bobus et minoribus rebus.

The Assize of Northampton (1176)

Haec sunt Assisae factae apud Clarendune, et postea recordatae apud Northamptoniam.

Any one presented by a jury shall go to ordeal. If he fail, he shall lose a foot and his right hand, and be banished. A presented felon, even if not condemned by ordeal, is banished. Any one presented for a lesser charge and uncon-
demned shall give sureties.

1. Si quis retatus fuerit coram justitiariis domini regis de murthero vel latrocinio, vel roberia, vel receptatione hominum talia facientium, vel de falsoneria vel iniqua combustione, per sacramentum duodecim militum de hundredo, et si milites non adfuerint, per sacramentum duodecim liberorum legalium hominum, et per sacramentum quatuor hominum de unaquaque villa hundredi, eat ad iudicium aquae, et si

perierit alterum pedem amittat. Et apud Northamptoniam additum est pro rigore justitiae quod dexterum similiter pugnum cum pede amittat, et regnum abjuret, et infra quadraginta dies a regno exulet. Et si ad aquam mundus fuerit, inveniat plegios et remaneat in regno, nisi retatus fuerit de murdro vel alia turpi felonia per commune comitatus et legalium militum patriae, de quo si praedicto modo retatus fuerit, quamvis ad aquam salvus fuerit, nihilominus infra quadraginta dies a regno exeat, et catalla sua secum asportet, salvo jure dominorum suorum, et regnum abjuret in misericordia domini regis. Haec autem assisa atenebit a tempore quo assisa facta fuit apud Clarendonam, continue usque ad hoc tempus; et amodo quamdiu domino regi placuerit, in murdro et proditione et iniqua combustione et in omnibus praedictis capitulis nisi in minutis furtis et roberiiis, quae facta fuerunt tempore guerra, sicut de equis et bobus et minoribus rebus.

Assize of Clarendon, §§ 1, 14, 22 (pp. 81, 86, 88)

2. Item nulli liceat neque in burgo neque in villa hospitari aliquem extraneum ultra unam noctem in domo sua, quem ad rectum habere noluerit, nisi hospitatus ille essonium rationabile habuerit, quod hospes domus monstret vicinis suis. Et cum recesserit, coram vicinis recedat et per diem.

Irresponsible
hospitality to be
limited.

Assize of Clarendon, §§ 15, 16 (p. 86)

Confessed crime
cannot after-
wards be denied.

3. Si quis saisitus fuerit de murthero vel latrocinio vel roberia vel falsoneria, et inde sit cognoscens, vel de aliqua alia feloniam quam fecerit, coram praeposito hundredi vel burgi, et coram legalibus hominibus; id postea coram Justitiis negare non poterit. Et si idem sine saisina coram eis aliquid hujusmodi recognoverit, hoc similiter coram Justitiis negare non poterit.

Assize of Clarendon, § 13 (p. 85)

A freeholder's heirs shall succeed, subject to the lord's rights of relief, homage, and wardship, and to the wife's dowry.

4. Item si quis obierit francus-tenens, haeredes ipsius remaneant in tali saisina qualon pater suus habuit die qua fuit vivus et mortuus, de feodo suo; et catalla sua habeant unde faciant divisam defuncti; et dominum suum postea requirant, et ei faciant de relevio et aliis quae ei facere debent de feodo suo. Et si haeres fuerit infra aetatem, dominus feodi recipiat homagium suum et habeat in custodia illum quamdiu debuerit. Alii domini, si plures fuerint, homagium ejus recipiant, et ipse faciat eis quod facere debuerit. Et uxor defuncti habeat dotem suam et partem de catallis ejus quae eam contingit. Et si dominus feodi negat haeredibus defuncti saisinam ejusdem defuncti quam exigunt, Justitiae domini regis faciant inde fieri percognitionem per duodecim legales homines, qualem saisinam defunctus inde habuit die qua fuit vivus et mortuus; et sicut recognitum fuerit, ita haeredibus ejus restituant. Et si quis contra hoc fecerit et

Assize of Mort d'Ancestor for an heir to whom the lord refuses seisin.

inde attaintus fuerit, remaneat in misericordia regis.

Glanvill, De Legibus Angliae, xiii. 2, 3

Cum quis itaque moritur seiscitus de aliquo libero tenemento, ita quod inde fuerit seiscitus in dominico suo sicut de feodo suo, haeres eandem seisinam antecessoris sui recte petere potest, et si major fuerit habebit tale breve — Rex vicecomiti salutem. Si G. filius T. fecerit te securum de clamore suo proseguendo, tunc summane per bonos summonitores duodecim liberos et legales homines de visineto de illa villa quod sint coram me vel Justiciis meis eo die parati sacramento recognoscere si T. pater praedicti G. fuit seiscitus in dominico sui sicut de feodo suo de una virgata terrae in illa villa die qua obuit.

¹ Si obiit post primam coronationem meam et si ille G. propinquior haeres ejus est, et interim terram illam videat et nomina eorum imbrevari facias, et summane per bonos summonitores R. qui terram illam tenet, quod tunc sit ibi auditurus illam recognitionem. Et habeas ibi summonitores et hoc breve.

Writs to be used
for Assize of
Mort d'Ancestor.

5. Item Justitiae domini regis faciant fieri recognitionem de dissaisinis factis super Assisam, a tempore quo dominus rex venit in Angliam proximo post pacem factam inter ipsum et regem filium suum.

Assize of Novel
Disseisin for one
dispossessed.

Glanville, De Legibus Angliae, xiii. 32, 33

Cum quis itaque infra assisam domini regis, id est infra tempus a domino rege de consilio procerum ad hoc constitutum, quod quandoque majus quandoque minus censetur, alium injuste et sine judicio disseisiverit de libero tenemento suo disseisito hujus constitutionis beneficio subvenitur et tale breve habebit — Rex vicecomite salutem. Questus est mihi N. quod R. injuste et

Writ to be used
for assize of
Novel Disseisin.

¹ There are different writs for the cases—si antecessor iter arripuerit eundi in aliquam peregrinationem : si infra aetatem fuerit haeres ipse : si habitum religiosum pater assumpserit.

sine iudicio disseisivit eum de libero tenemento suo in illa villa, post ultimam transfretationem meam in Normaniam. Et ideo tibi praecipio quod si prefatus N. fecerit te securum de clamore suo prosequendo, tunc facias tenementum illud reseisiri de catallis quae in eo capta fuerunt, et ipsum tenementum cum catallis esse facias in pace usque ad clausum Paschae, et interim facias duodecim liberos et legales homines de visineto videre terram suam et nomina eorum umbreviari facias et summone illos per bonos summonitores quod tunc sint coram me vel Justiciis meis parati inde facere recognitionem. Et pone per vadium et salvos plegios praedictum R. vel ballivum suum si ipse non fuerit inventus, quod tunc sit ibi auditorus illam recognitionem. Et habeas ibi, etc.

Justices to take oaths of fealty from all, free and unfree, and also to enforce the need of homage and allegiance.

6. Item Justitiae capiant domini regis fidelitates infra clausum Pascha, et ad ultimum infra clausum Pentecosten, ab omnibus, scilicet comitibus, baronibus, militibus et libere tenentibus, et etiam rusticis, qui in regno manere voluerint. Et qui facere noluerint fidelitatem, tanquam inimicus domini regis capiatur. Habent etiam Justitiae praecipere, quod omnes illi qui nondum fecerunt homagium et ligantiam domino regi, quod ad terminum quem eis nominabunt veniant et faciant regi homagium et ligantiam sicut ligio domino.

Justices to determine pleas of the Crown by royal writ. Important or doubtful cases to be referred to the King.

7. Item Justitiae faciant omnes justitias et rectitudines spectantes ad dominum regem et ad coronam suam, per breve domini regis, vel illorum qui in loco ejus erunt, de feodo dimidii militis et infra, nisi tam grandis sit querela quod non possit deduci sine domino rege, vel talis quam Justitiae ei reportent pro dubitatione sua, vel ad illos qui in loco ejus erunt. Intendant tamen pro posse suo ad commodum domini regis faciendum.

Faciant etiam assisam de latronibus iniquis et malefactoribus terrae ; quae assisa est per consilium regis filii sui et hominum suorum, per quos ituri sunt comitatus.

Benedictus Abbas, i. 207 (1178)

Itaque dominus rex moram faciens in Anglia quaesivit de Justitiis quos in Anglia constituerat, si bene et modeste tractaverunt homines regni ; et cum didicisset quod terra et homines terrae nimis gravati essent ex tanta Justitiarum multitudine, quia octodecim erant numero ; per consilium sapientium regni sui quinque tantum elegerit, duos scilicet clericos et tres laicos, et erant omnes de privata familia sua. Et statuit quod illi quinque audirent omnes clamores regni, et rectum facerent, et quod a curia regis non recederent, sed ibi ad audiendum clamores hominum remanerent ; ita ut si aliqua quaestio inter se veniret, quae per eos ad finem duci non posset, auditui regio praesentaretur, et sicut ei et sapientioribus regni placeret terminaretur.

Formation of a permanent Court to be always with the King.

* * * * *

9. Item Justitiae inquirent de excaetis, de ecclesiis de terris, de feminis quae sunt de donatione domini regis.

Justices to inquire into other royal rights.

* * * * *

11. Item Justitiae inquirent de custodiis castellorum, et qui et quantum, et ubi eas debeant, et postea mandent domino regi.

Justices to inquire about the custody of castles.

12. Item latro, ex quo capitur, vicecomiti tradatur ad custodiendum. Et si vicecomes absens fuerit, ducatur ad proximum castellanum, et ipse illum custodiat donec illum liberet vicecomiti.

Sheriff responsible for the custody of a thief when arrested.

Fugitives from justice to be outlawed, and their names reported.

13. Item Justitiæ faciant quaerere per consuetudinem terræ illos qui a regno recesserunt; et nisi redire voluerint infra terminum nominatum, et stare ad rectum in curia domini regis, postea utlagentur; et nomina utlagorum afferant ad Pascha, et ad festum Sancti Michaelis, ad scaccarium, et exinde mittantur domino regi.

The Assize of Arms (1181)

The equipment of the holder of a Knight's fee;

1. Quicumque habet feodum unius militis habeat lorica et cassidem, clypeum et lanceam; et omnis miles habeat tot loricas et cassides, et clypeos et lanceas quot habuerit feoda militum in dominico suo.

of freeholders with property of a certain value;

2. Quicumque vero liber laicus habuerit in catallo vel in redditu ad valentiam de xvi. marcis, habeat lorica et cassidem et clypeum et lanceam; quicumque vero liber laicus habuerit in catallo vel redditu x. marcas habeat aubergel, et capellet ferri et lanceam.

of burgesses and freemen.

3. Item omnes burgenses et tota communia liberorum hominum habeant wambais et capellet ferri et lanceam.

* * * * *

No Jew is to have arms.

7. Item nullus Judæus lorica vel aubergellum penes se retineat, sed ea vendat,

vel det, vel alio modo a se removeat, ita quod remaneant in servitio regis.

8. Item nullus portet arma extra Angliam nisi per praeceptum domini regis; nec aliquis vendat arma alicui, qui ea portet ab Anglia.

The King's leave necessary for export of arms.

9. Item Justitiae faciant jurare per legales milites vel alios liberos et legales homines de hundredis et de burgis, quot viderint expedire, qui habebunt valentiam catalli secundum quod eum habere oportuerit lorica et galeam et lanceam et clypeum secundum quod dictum est; scilicet quod separatim nominabunt eis omnes de hundredis suis et de visnetis et de burgis, qui habebunt xvi. marcas vel in catallo vel in redditu, similiter et qui habebit x. marcas. Et Justitiae postea omnes illos juratores et alios faciant inbreviari, qui quantum catalli vel redditus habuerint, et qui secundum valentiam catalli vel redditus, quae arma habere debuerint: et postea coram eis in communi audientia illorum faciant legere hanc assisam de armis habendis, et eos jurare quod ea arma habebunt secundum valentiam praedictam catallorum vel redditus, et ea tenebunt in servitio domini regis secundum hanc praedictam assisam. . . .

Justices are to hold an inquiry, through a jury of the hundred or the borough, to determine the liability of each freeman, and are to bind him by oath to keep the necessary arms in readiness for the King's service.

10. Item Justitiae faciant dici per omnes comitatus per quos iturae sunt, quod qui haec arma non habuerint secundum quod praedictum est, dominus rex capiet se ad eorum membra et nullo modo capiet ab eis terram vel catallum.

Those who shirk this obligation are to be threatened with loss of limbs.

No one is eligible to act as a juror unless he has chattels equal in value to those of the classes mentioned in § 2.

The sale outside the country of ship or timber forbidden.

Only freemen are liable to the oath of arms.

11. Item nullus juret super legales et liberos homines, qui non habeat xvi. marcas. vel x. marcas in catallo.

12. Item Justitiæ præcipiant per omnes comitatus, quod nullus sicut se ipsum et omnia sua diligit, emat vel vendat aliquam navem ad ducendum ab Anglia, nec aliquis deferat vel deferre faciat maironiam extra Angliam. Et præcepit rex quod nullus reciperetur ad sacramentum armorum nisi liber homo.

Proclamation for the Preservation of the Peace (1195)

All men are to be bound by oath to the duties of watch and ward against malefactors and their abettors, and of following the hue and cry for their apprehension, and of forcing others to do their duty in these respects

Eodem anno prædictus archiepiscopus, totius Angliæ Justitiarius, misit per totam Angliam hujusmodi formam juramenti, videlicet: Quod omnes homines regni Angliæ pacem domini regis pro posse suo servabunt; et quod nec latrones nec robatores nec eorum receptatores erunt, nec in aliquo eis consentient; et quod cum hujusmodi malefactores scire poterunt, illos pro toto posse suo capient et vicecomiti liberabunt, qui nullo modo deliberentur nisi per dominum regem vel capitalem Justitiam suum; et si illos capere non poterunt, eos ballivis domini regis, quicumque fuerint, scire facient. Levato autem clamore insequendi utlagos, robatores, latrones aut eorum receptatores, omnes sectam illam

plene facient pro toto posse suo; et si quem viderint vel manifestum fuerit sectam illam non fecisse, vel sine licentia se ab ea subtraxisse, eos tanquam malefactores ipsos capient et vicecomiti liberabunt, non deliberandos nisi per regem aut ejus capitalem Justitiam. Milites vero ad hoc assignati facient venire omnes de ballia sua coram se a quindecim annis et ultra; et jurare facient quod pacem domini regis, ut supradictum est, servabunt; et quod nec utlagi, nec robatores, nec latrones, nec eorum receptatores erunt, nec in aliquo eis consentient; et quod sectam, ut praedictum est, plenam facient; et quod si cum malefactione aliquem ceperint, militibus in ballia sua super se positis et ad hoc assignatis, eum liberabunt, qui eum vicecomiti liberabunt custodiendum; similiter, si aliquem viderint vel eis notum fuerit, levato clamore insequendi malefactores praedictos, qui sectam non fecerit, vel a secta illa se subtraxerit sine licentia, eum tanquam malefactorem ipsum capient, et militibus praedictis liberabunt, vicecomiti liberandum et custodiendum ut ipsum malefactorem; nec liberandum nisi per praeceptum domini regis vel ejus capitalis Justitiae.

The Knights assigned for this purpose shall take an oath to this effect from every one in their balliwick above fifteen years of age.

De forma pacis conservanda (1233)

Watch is to be kept in every v'ill at night by at least four men. Any stranger passing is to be arrested, if necessary by raising the hue and cry.

Rex vicecomiti Kantiae, salutem. Scias quod ad pacem et tranquillitatem terrae nostrae observandam et malefactores reprimendos provisum fuit, coram nobis et magnatibus nostris, de communi consilio eorum, quod vigiliae in singulis villis de nocte teneantur usque ad festum Sancti Michaelis, anno XVII^o, secundum quod villae fuerint, magnae vel parvae; ita tamen quod quatuor homines ad minus faciant vigiliam illam si villa fuerit parva, et si magna fuerit, plures eam faciant secundum quantitatem villae. Ita etiam quod nullus extraneus transeat per aliquam villam de nocte, quin arestetur usque mane; et si vigilatores illum non possint arestare, tunc levent clamorem et uthesium super eum. Et si aliquis defectus fuit in vigiliis vel sectis ad uthesium faciendis, nullus propter hoc a vicecomitis ballivis occasionetur, sed omnes hujusmodi emendae integre reserventur usque ad adventum Justitiarum proximo itinerantium, per atachiamenta vicecomitis in comitatu coram coronatoribus. Item nullus hospitetur aliquem extraneum ultra unam noctem nisi possit invenire plegios de fidelitate et quod nullum damnum eveniet per eum, et respondeat pro eo sicut pro uno de familia sua, et hoc coram Justitiis itinerantibus. . . .

No stranger is to be kept for more than one night unless his host will be responsible for him.

Warrant for Enforcing Watch and Ward and the Assize of Arms (1252)

Henricus Dei gratia rex etc vicecomiti . . . salutem. Sciatis quod ad pacem nostram firmiter observandam, provisum est de consilio nostro, quod vigiliae fiant in singulis civitatibus, burgis et omnibus aliis villis comitatus tui, a die Ascensionis Domini usque ad festum Sancti Michaelis, scilicet in singulis civitatibus ad singulas portas per sex homines armis munitos, et in singulis burgis per duodecim homines; et in singulis villis integris per sex homines vel quatuor ad minus similiter armis munitos secundum numerum inhabitantium; et vigilant continuo per totam noctem ab occasu solis usque ad ortum, ita quod, si aliquis extraneus transitum per ipsos faciat, arrestent usque mane; et tunc, si fidelis sit, dimittatur, et si suspectus sit, vicecomiti liberetur, qui ipsum sine omni difficultate et dilatione recipiat et salvo custodiat; si vero hujusmodi extranei, transitum facientes, se non permiserint arrestari, tunc praedicti vigiles hutesium levant super eos undique, et eum insequantur cum tota villata et vicinis villatis, cum clamore et hutesio de villa in villam, donec capiantur: et tunc liberentur vicecomiti sicut praedictum est, ita quod nullus

Watch is to be made by night in every city, town, and vill by a specified number of armed men, who shall detain a passing stranger until satisfied of his good intentions, or shall raise the hue and cry after him, and hand the captive over to the sheriff.

occasione hujusmodi arrestationis vel captionis extraneorum per vicecomitem, vel per ballivos suos, occasionetur ; et singulae civitates, burgi et villae, praemuniantur ad singulas praedictas vigilias et sectas ita diligenter faciendum, ne defectum illorum graviter punire debeamus.

Each sheriff, with two knights appointed for the purpose, shall go round each community of the county in turn, and shall summon before them every one, free-man and villan alike, and make each swear that he will keep the arms specified for those of his rank and possessions.

Provisum est etiam quod singuli vicecomites una cum duobus militibus ad hoc specialiter assignatis, circumeant comitatus suos de hundredo in hundredum, et civitates et burgos, et convenire faciant coram eis in singulis hundredis, civitatibus et burgis, cives, burgenses, libere tenentes, villanos et alios aetatis quindecim annorum usque ad aetatem sexaginta annorum, et eosdem faciant omnes jurare ad arma, secundum quantitatem terrarum et catallorum suorum ; scilicet ad quindecim libratas terrae, unam loriam, capellum ferreum, gladium, cultellum et equum ; ad decem libratas terrae unum habergetum, capellum ferreum, gladium et cultellum ; ad centum solidatas terrae unum purpunctum, capellum ferreum, gladium, laceam et cultellum ; ad quadraginta solidatas terrae, et eo amplius ad centum solidatas terrae, gladium, arcum, sagittas et cultellum. Qui minus habent quam quadraginta solidatas terrae, jurati sint ad falces, gisarmas, cultellos et alia arma minuta. Ad catalla sexaginta marcarum, unam loriam, capellum ferreum, gladium, cultellum et equum ; ad catalla quadraginta marcarum, unum haubercum, capellum ferreum, gladium et cultellum ;

ad catalla viginti marcarum, unum purpunctum, capellum ferreum, gladium et cultellum; ad catalla novem marcarum, gladium, cultellum, arcum et sagittas; ad catalla quadraginta solidorum et eo amplius usque ad decem marcas, falces, gisarinas, et alia arma minuta. Omnes etiam illi qui possunt habere arcus et sagittas extra forestam, habeant; qui vero in foresta, habeant arcus et pilatos.

In singulis civitatibus et burgis jurati ad arma sint coram majoribus civitatis, et praepositis et ballivis burgorum ubi non sunt majores; in singulis vero villatis aliis constituatur unus constabularius vel duo² secundum numerum inhabitantium et provisionem praedictorum; in singulis vero hundredis constituatur unus capitalis constabularius, ad cujus mandatum omnes jurati ad arma de hundredis suis convenient et ei sint intendentes ad faciendum ea quae spectant ad conversionem pacis nostrae. Clamare etiam faciant singuli vicecomites per civitates et burgos et omnia mercata ballivorum suorum quod nulli convenient ad turniandum vel burdandum, nec ad alias quascumque aventuras, nec etiam aliqui incedant armati nisi specialiter fuerunt ad custodiam pacis nostrae deputati; et si aliqui fuerint inventi sive incedentes armati contra hanc provisionem nostram, arrestentur et vicecomiti liberentur: et si se non permiserint arrestari, tunc constabularii singulorum hundredorum et villatarum, et alii quicumque sint, hutesium levent super

In each city or borough the chief official, whether mayor, provost, or bailiff, shall convene those sworn to arms. For this purpose there shall be appointed in each vill a constable or two constables, in each hundred one chief constable.

The sheriff is to issue a proclamation against tournaments, and to forbid any one to go about armed except those specially appointed to keep the peace. This is to be enforced, if necessary, by the hue and cry and by threats of severe punishment on those who let a captured malefactor escape.

eos undique, et cum vicinis villis, et de villa in villam ipsos insequantur donec capiantur et vicecomiti liberentur, sicut praedictum est; quoties autem contigerit hutesium levare super quoscunque perturbatores pacis nostrae, praedones et malefactores in parvis et vivariis, statim propter eos fiat hutesium, et ipsos insequantur donec capiantur et vicecomiti liberentur, sicut de aliis praedictum est; et omnes vicecomites et eorum ballivi, constabularii, jurati ad arma, burgenses, libere tenentes et villani, talem sectam faciant propter praedictos malefactores, ne ipsi malefactores evadant, et ne, si pro eorum defectu evadant, hii in quibus defectus inventus fuerit graviter puniri debeant, et sic per consilium nostrum puniantur, quod poena illorum aliis metum incutiat, et auferat materiam delinquendi; suspectos autem de die per quascunque arrestationes recipiant arrestatos, vicecomites sine dilatione et difficultate salvo custodiant donec per legem terrae deliberentur. . . .

**Writ for carrying out the Watch
and Ward and Assize of
Arms (1253)**

. . . Et insuper in qualibet villa provideantur quatuor homines vel sex secundum quantitatem villae, ad utesia prompte et instanter prosequenda et ad malefactores prosequendos si supervenerint et necesse fuerit, cum arcubus et sagittis et aliis levibus armis, quae debent provideri ad custum totius villae et quae semper remaneant ad opus praedictae villae. . . .

Men are to be provided in each vill for following the hue and cry after malefactores, and their arms are to be provided at the cost of the vill, for whose use they should remain.

The Statute of Winchester (1285)

Pur ceo qe de jour en jour roberies, homicides, arsuns, plus sovenerement sunt fetes qe avaunt ne soleyent, e felonies ne poount estre atteinz par serment de jururs, qe plus volunters sufferent felonies fetes as estraunges genz passer saunz peynes qe enditer meffessours, dunt graunt partie sunt gent de meimes le pays, ou a meins, si les fesours sont de autre pays, lour recetturs sunt del visne ; e ceo funt il pur taunt qe serment nest mie hore dute as jururs ne au pays ou les felonies furent fetes qaunt a restitution des damages, peyne avant ne fu purveue pur lur concelement e lur lachesce ;

nostre seignur le rey, pur abatre le poer de feluns, si establit peyne en teu cas, issi qe par pour de la peyne plus qe par pour de serment, a nuli desoremes ne esparnient, ne nule felonie ne concelent ; e comand qe solempnement seit la crie fete, en tuz cuntez, hundrez, marches, feyres e tuz autres lous ou solempne assemble des gentz sera, issi qe nul par ignoraunce se pusse escuser, qe chēcun pays issi desoremes seit garde, qe maintenant apres rōberies e felonies fetes seit fete si fresche sute de vile en vile, de pays en pays.

II. Enquestes ensement seient fetes si

Translation

Forasmuch as from day to day, robberies, murders, burnings, and thefts be more often used than they have been heretofore, and felons cannot be attainted by the oath of jurors which had rather suffer felonies done to strangers to pass without pain, than to indite the offenders of whom great part be people of the same country, or at least if the offenders be of another country the receivers be of places near; and they do the same because an oath is not put unto jurors, nor upon the country where such felonies were done as to the restitution of damages, hitherto no pain hath been limited for their concealment and laches;

our lord the King, for to abate the power of felons, hath established a pain in this case, so that from henceforth, from fear of the pain more than from fear of any oath, they shall not spare any nor conceal any felonies; and doth command that cries shall be solemnly made in all counties, hundreds, markets, fairs, and all other places where great resort of people is, so that none shall excuse himself by ignorance, that from henceforth every country be so well kept that immediately upon such robberies and felonies committed fresh suits shall be made from town to town and from country to country.

II. Likewise when need requires, inquests

mester est en viles par celui qi sovereign est de la vile, e pus en hundrez e en fraunchises e en cuntez, et ascun foiz en deux, trois, ou qatre countees, en cas quaunt felonies serunt fetes en marche de cuntez, issi qe meffesours pusement estre ateinz. E si le pais de tels manere de mefesours ne respoigne, la pein sera tiel qe chescun pais, cest assaver genz en pais demoraunz, respoignent de roberies fetes e de damages; issi qe tut le hundred ou la roberie serra fete, ove les fraunchises qe sunt dedenz la purceint de meime le hundred, respoignent de roberie fete. E si la roberie seit fete en devises dedenz hundrez, respoigne ambedeus les hundrez ensemblement of les fraunchises; e plus long terme ne avera le pais, apres la roberie e felonie fete, qe xl. joursz, dedenz les quels il covendra qil facent gre de la roberie e du mefet ou qil respoignent de cors de mefesours.

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IV. E a plus seurer le pais, ad le rey comaunde qe en les graunz viles qe sunt closes, les portes seient fermes de solail rescuse deques au solail levaunt; e qe nul home ne herberge en suburbe ne en forein chief de la vile, si de jour noun, ne uncore de jour si le hoste ne voille pur lui res-

shall be made in towns by him that is lord of the town, and after in the hundred and in the franchise and in the county, and sometimes in two, three or four counties, in case when felonies shall be committed in the marches of shires, so that the offenders may be attainted. And if the country will not answer for the bodies of such manner of offenders, the pain shall be such, that every country, that is to wit, the people dwelling in the country, shall be answerable for the robberies done and also for the damages ; so that the whole hundred where the robbery shall be done, with the franchises being within the precinct of the same hundred, shall be answerable for the robberies done. And if the robbery be done in the division of two hundreds, both the hundreds and the franchises within them shall be answerable ; and after that the felony or robbery is done, the country shall have no longer space than forty days, within which forty days it shall behove them to agree for the robbery or offence, or else that they will answer for the bodies of the offenders.

* * * * *

IV. And for the more surety of the country, the King hath commanded that in great towns being walled, the gates shall be closed from the sun-setting until the sun-rising ; and that no man do lodge in suburbs, nor in any place out of the town, from nine of the clock until day, without

pundre ; e les baillifs de viles chescune semeine, ou ameins quinzeine, facent enquestes de genz herbergez en suburbes e en foreins chefs de viles ; e sil trovent nul herbergour qi resceive ou herberge en autre manere gent dunt suspeciu seït qil soient gent countre la pes, si enfacent les baillifs dreiture. E desoremes est comaunde, qe veylles soient fetes, issi cum auncienement, soleyent estre, ceo est asaver del jour de la Ascenciun deqes le jour Seint Michel, en chescun cite par sis homes, en chescune porte ; en chescun burgh par xii homes ; en chescune vile en terre par vi homes ou iiij solom nombre des genz qi abitent ; e facent la veille continuelement tute la nuit del solail rescusse jeques al solail levaunt. E si nul estraunge passe par eus, seït arestu jeques au matin ; e si nule suspeciu ne seït trove, auge quites ; e si em trove suspeciu, seït livere al viscunte maintenaunt, e saunz daunger le receive, e sauvement le garde, jeques a taunt qe en due manere seït delivre. E si eus ne se soeffèrent pas estre aresteuz, seït heu e cri leve sur eus, e ceus qi funt la veille les siwent o tute la vilee ove les visnees viles, o heu e cri de vile en vile, jesques taunt qil serra pris e livrez au viscunte cum est avaunt dit ; e pur le resteiment de tels estraunges, nul ne seït enchesune.

his host will answer for him ; and the bailiffs of towns every week, or at the least every fifteenth day, shall make inquiry of all persons being lodged in the suburbs or in foreign places of the towns ; and if they do find any that have lodged or received any strangers or suspicious person against the peace, the bailiffs shall do right therein. And, the King commandeth, that from henceforth, all watches be made as it hath been used in times past, that is to wit, from the day of the Ascension until the day of S. Michael, in every city by six men at every gate ; in every borough twelve men ; every town six or four, according to the number of the inhabitants of the town, and they shall watch the town continually all night from the sun-setting unto the sun-rising. And if any stranger do pass by them he shall be arrested until morning ; and if no suspicion be found he shall go quit ; and if they find cause of suspicion, they shall forthwith deliver him to the sheriff, and the sheriff may receive him without damage, and shall keep him safely, until he be acquitted in due manner. And if they will not obey the arrest, they shall levy hue and cry upon them, and such as keep the watch shall follow with hue and cry with all the town and the towns near, and so hue and cry shall be made from town to town, until that they be taken and delivered to the sheriff as before is said ; and for the arrestment of such strangers none shall be punished.

V. Comaunde est ensement qe les hauz chemins des viles marchaundes as autre viles marchaundes seient enlargiz, la ou il iad bois, ou haies, ou fossez, issi qil nieit fosse, suthboys, ou bussuns, ou lem peut tapir pur mal fere pres del chemin, de deus centz pez de une part, e de deus centz pez de autre part, issi qe cet estatut point ne estende as keynes, ne as gros fusz, par quei ceo seit cler desuz. . . .

VI. Comaunde est ensement qe chescun home eit en sa mesun armure pur le pees garder, solum la aunciene assise ; ceo est assavr qe chescun home entre quinze annz e seisaunte soit asis e jure as armes, solum la quantite de lur terres e de lur chateus ; ceo est assaver, a quinze liveree des terres e chateus de quaraunte mars, halibergeun, chapel de feer, espe, cutel e cheval ; a diz liveree de terre e chateus de vint mars, haubergeun, chapel, espe e cutel ; a cent souldes de terre, parpoint, chapel de feer, espe e cutel ; a quaraunte souldes de terre, e de plus jeques a cent souz, espe, ark, setes e cutel ; e qe meins ad ke quaraunte souze de terre seit jure a faus gisarmes, cuteus e autres menues armes ; qi meins ad de chateus ke vint mars, espees, cuteus e autres menues armes. E tuz les autres qi aver pount, eient arcs e setes hors des forestes, e dedenz forestes arcs e piles. E qe veue des armes soit fete deus foiz par an. E en chescun hundred e fraunchise seyent eleus deus conestables a fere la veue des

V. And further, it is commanded that highways leading from one market town to another shall be enlarged, whereas bushes, woods or dykes be, so that there be neither dyke, tree, nor bush whereby a man may lurk to do hurt within two hundred foot of the one side and two hundred foot on the other side of the way ; so that this statute shall not extend unto oaks, nor unto great trees, so as it shall be clear underneath. . . .

VI. And further, it is commanded that every man have in his house harness for to keep the peace after the ancient assize ; that is to say, every man between fifteen years of age and sixty years, shall be assessed and sworn to armour according to the quantity of their lands and goods ; that is to wit, from fifteen pounds lands, and goods forty marks, an hauberke, an helme of iron, a sword, a knife, and a horse ; and from ten pounds of lands, and twenty marks goods, an hauberke, an helme of iron, a sword and a knife ; and from five pounds lands, a doublet, an helme of iron, a sword and a knife ; and from forty shillings of land, a sword, a bow and arrows, and a knife ; and he that hath less than forty shillings yearly shall be sworn to keep gisarmes, knives, and other less weapons ; and he that hath less than twenty marks in goods, shall have swords, knives and other less weapons ; and all other that may shall have bows and arrows out of the forest, and in the forest bows and boults. And that view of

armes ; e les conestables avaunt diz presentent devaunt les justices assignez, quant it vendrunt en pays, les defautes qil averount trovez de armeure, e de suites de veilles, e de cheminz ; e presentent ausi de genz, qi herbergent genz estraunges en viles de uppelaunde, pur queus il ne volent respundre. E les justices assignez en chescun parlement representent au rey, e le rey sur ceo en fra remedie. E bien se gardent desoremes Viscuntes, Baillifs de fraunchises e dehors, greignurs ou maindres, qi baillie ou foresterie unt, en fee ou en autre manere, qil siwent le cri ove le pays ; e solum ceo qil sũnt, eient chevaus e armeure a ceo fere ; e si nul seit qi nel face, soient les defauz presentez par les conestables as justicez assignez, e puis apres par eus au rey cum avaunt est dit. E comaunde le rey e defend qe feire ne marche desoremes ne soient tenuz en cimeter pur honur de Sainte Eglise. Done a Wyncestre, le utisme jour de October, le an du regne le rey trezime.

armour be made every year two times. And in every hundred and franchise two constables shall be chosen to make the view of armour; and the constables aforesaid shall present before justices assigned such defaults as they do see in the country about armour, and of the suits, and of watches, and of highways; and also shall present all such as do lodge strangers in uplandish towns, for whom they will not answer. And the justices assigned shall present at every parliament unto the King such defaults as they shall find, and the King shall provide remedy therein. And from henceforth let sheriffs take good heed, and bailiffs within their franchises and without, be they higher or lower, that have any bailiwick or forestry in fee or otherwise, that they shall follow the cry with the country, and after, as they are bounden, to keep horses and armour, so to do; and if there be any that do not, the defaults shall be presented by the constables to the justices assigned, and after by them to the King; and the King will provide remedy, as afore is said. And the King commandeth and forbiddeth that from henceforth neither fairs nor markets be kept in churchyards, for the honour of the church. Given at Winchester, the eighth of October, in the thirteenth year of the reign of the King.

The Provisions of Westminster (1259)

Anno ab incarnatione Domini MCCLIX regni autem Henrici regis, filii regis Johannis xliii, convenientibus apud Westmonasterium in quindena Sancti Michaelis ipso domino rege et magnatibus suis, de communi consilio et consensu dictorum regis et magnatum factae sunt provisiones subscriptae per ipsos regem et magnates et publicatae in hunc modum.

Limitation of the
right of exacting
suit of Court.

1. De sectis faciendis ad curias magnatum et aliorum dominorum ipsarum curiarum, provisum est et concorditer statutum quod nullus qui per cartam feofatus est, distringatur de cetero ad sectam faciendam ad curiam domini sui, nisi per formam cartae suae specialiter teneatur ad sectam faciendam; hiis tantum exceptis quorum antecessores vel ipsimet hujusmodi sectam facere consueverunt ante primam transfretationem dicti domini regis in Britanniam a tempore cujus transfretationis elapsi fuerunt xxix anni et dimidius tempore quo haec constitutio facta fuit; et similiter nullus feofatus sine carta a tempore conquaestus vel alio antiquo feofamento distringatur ad hujusmodi sectam faciendam, nisi ipse vel antecessores sui eam facere consueverunt ante primam transfretationem domini regis in Britanniam.

Petition of the Barons, § 24

Item petunt remedium de sectis de novo levatis in regno, tam ad comitatus et hundreda, quam ad curias libertatis, quae nunquam aliquo tempore fieri consueverunt.

They protest against the demand of unusual suits to the local courts.

2. Et si haereditas aliqua, de qua tantum una secta debebatur, ad plures haeredes participes ejusdem devolvatur, ille qui habet einesciam haereditatis illius unicam faciat sectam pro se et participibus suis; et participes sui pro portione sua contribuant ad sectam illam faciendam. Similiter etiam si plures feofati fuerint de haereditate aliqua, de qua unica secta debebatur, dominus illius feodi unicam habeat inde sectam, nec possit de praedicta haereditate nisi unicam sectam exigere, sicut fieri prius consuevit. Et si feofati illi warantum vel medium non habeant qui inde eos acquietare debeat, tunc omnes feofati contribuant pro portione sua ad sectam illam faciendam.

Who of co-partners of one suit shall do suit of Court.

3. Si autem contingat quod domini curiarum tenentes suos contra hanc provisionem pro hujusmodi secta distringant, tunc ad querimoniam tenentium illorum attachientur quod ad curiam regis veniant ad brevem diem inde responsuri; et unicum habeant essonium si fuerint in regno; et incontinenti deliberentur conquerenti averia sive districtiones aliae hac occasione factae, et deliberata remaneant donec placitum inter eos terminetur. Et si domini curiarum, qui districtiones hujusmodi fecerint, ad diem ad quem attachiati fuerint non venerint, vel diem per essonium sibi datum

Remedies—(1.) of tenants against lords who distrain for refusal of more suits than are due;

non observaverint, tunc mandetur vicecomiti quod eos ad diem illum venire faciat, ad quem diem si non venerint, mandetur vicecomiti quod distringat eos per omnia quae habent in ballia sua, ita quod regi respondeat de exitibus et quod habeat eorum corpora ad certum diem praefigendum, ita quod si die illo non venerint, pars conquerens eat inde sine die, et averia sive aliae distractiones deliberata remaneant donec ipsi domini sectam illam recuperaverint per considerationem curiae domini regis; et cessent interim distractiones hujusmodi, salvo dominis curiarum jure suo de sectis illis perquirendis in forma juris, cum inde loqui voluerint. Et cum domini curiarum venerint responsuri conquerentibus de hujusmodi distractionibus, si super hoc convinctur, tunc per considerationem curiae recuperent conquerentes versus eos damna sua quae sustinuerunt occasione praedictae distractionis. Simili autem modo si tenentes post hanc constitutionem subtrahant dominis suis sectas quas facere debent, et quas ante tempus supradictae transfretationis et hactenus facere consueverunt, per eandem justitiam et celeritatem quo ad dies praefigendos et distractiones adjudicandas consequantur domini curiarum justitiam de sectis illis, una cum damnis suis, quemadmodum tenentes sua damna recuperant. Et hoc scilicet de damnis recuperandis intelligatur de subtractionibus sibi factis, et non de subtractionibus factis praedecessoribus ipsorum; verum tamen

(11.) of lords
against tenants
who refuse suits
that are due.

domini curiarum versus tenentes suos seisinam de sectis hujusmodi recuperare non poterunt per defaultam, sicut nec hactenus fieri consuevit. De sectis autem quae ante tempus supradictae transfretationis subtractae fuerunt, currat lex communis sicut prius currere consuevit.

4. De turno vicecomitis provisum est, ut necesse non habeant ibi venire archiepiscopi, episcopi, abbates, priores, comites, barones, nec aliqui religiosi seu mulieres, nisi specialiter eorum praesentia exigatur; sed teneatur turnus sicut temporibus praedecessorum domini regis teneri consuevit. Et si qui in hundredis diversis habeant tenementa, non habeant necesse ad hujusmodi turnum venire, nisi in balliis ubi fuerint conversantes; et teneantur turni secundum formam Magnae Cartae regis, et sicut temporibus regum Johannis et Ricardi teneri consueverunt.

Limitation on attendance at the Sheriff's turn.

Petition of the Barons, § 17

Insuper dicunt quod vicecomites ad duos turnos suos per annum demandant personalem adventum comitum et baronum tenentium baronias suas in diversis locis et comitatibus; et si non venerint ibi personaliter, amerciant ipsos sine consideratione et judicio; et hoc quia quilibet vicecomes dicit, quod in dictis turnis est justitiarius quoad diem.

Barons who have their lands in several places are fined for not coming personally to the Sheriff's turns.

5. Provisum est etiam quod nec in itinere Justitiarum nec in comitatibus, nec in curiis baronum, de cetero ab aliquibus recipiantur fines pro pulchre placitando, neque per sic quod non occasionentur.

No fines for fair pleading to be exacted.

Petition of the Barons, § 14

The justices use all kinds of excuses in connection with pleas of the Crown for levying fines and selling justice. Thus if all the four neighbouring villa do not appear in a case of homicide or drowning, every one above twelve in all four is amerced.

Facilities for plea of dower to be given.

Rules for holding *Darrein Presentation* and *Quare Impedit*.

Limitation on exemption from jury service.

Item praedicti justitiiarii capiunt finem gravem pro pulchro placitando quolibet comitatu, ne occasionentur ; et non debent emere jura, et de aliis pluribus occasionibus de placitis coronae. Et si villatae quatuor propinquiores ad mortem hominis interfecti vel submersi non accesserint, omnes de aetate xii annorum praedictarum iv villatarum graviter amerciabuntur.

6. In placito vero dotis quod dicitur *Unde nihil habet*, dentur de cetero quatuor dies per annum ad minus, et plures si commodum fieri posset.

7. In assisis ultimae praesentationis, et in placito *Quare impedit* de ecclesiis vacantibus, detur dies de quindena in quindenam, vel de tribus septimanis in tres septimanas, prout locus propinquus fuerit vel remotus. Et in placito *Quare impedit*, si ad primum diem, ad quem summonitus fuerit, non veniat nec essonium mittat impeditor, tunc attachietur ad diem alium, quo die si non venerit nec essonium mittat, distringatur per magnam distractionem superius dictam. Et si tunc non venerit, per ejus defaultam scribatur episcopo quod reclamatio impeditoris illa vice conquerenti non obsistat, salvo impeditori alias jure suo, cum inde loqui voluerit.

8. De cartis vero exemptionis et libertatis ne ponantur impetrantes in assisis, juratis vel recognitionibus, provisum est ut si adeo necessarium sit eorum juramentum quod sine eo justitia exhiberi non possit, veluti in magna assisa et perambulationibus et ubi

in cartis vel scripturis conventionum fuerint testes nominati, aut in attinctis vel casibus aliis consimilibus, jurare cogantur, salva sibi alias libertate et exemptione sua praedicta.

Petition of the Barons, § 28

Item petunt remedium de hoc, quod dominus rex large facit militibus de regno suo acquietantiam, ne in assisis ponantur, juramentis vel recognitionibus, propter quod in pluribus comitatibus pro defectu militum non potest capi aliqua magna assisa, et ita remanent hujusmodi loquela, ita quod petentes nunquam justitiam consequuntur.

The King by special licence relieves Knights from the duty of serving on the assize, so much so that in many counties it is impossible to hold the great assize.

9. Si haeres aliquis post mortem sui antecessoris infra aetatem exstiterit, et dominus suus custodiam terrarum suarum habuerit, si dominus ille dicto haeredi, cum ad legitimam aetatem pervenerit, terram suam sine placito reddere noluerit, haeres ille terram suam ut de morte sui antecessoris recuperabit, una cum damnis quae sustinuerit per illam detentionem a tempore quo legitimae fuerit aetatis; quod si haeres in morte sui antecessoris plenae fuerit aetatis, et haeres ille apparens et pro haerede cognitus inventus sit in haereditate illa, capitalis dominus ejus eum non ejiciat nec aliquid ibi capiat vel amoveat, sed tantum simplicem seisinam faciat per recognitionem domini sui.

Limitation of a lord's right of wardship.

Petition of the Barons, § 1

Petunt comites et barones de successionibus, quod filius natus et primogenitus vel filia post patrem libere ingreditur possessionem patris, ita quod capitalis dominus debet habere simplicem seisinam per unum ex ballivis suis, ita quod nihil capiatur per praedictum ballivum de exitibus terrae vel redditibus; quando vero haeres fuerit plenae aetatis et prosecutus jus suum fuerit, ad faciendum

The barons demand that the eldest son or daughter shall succeed the father in his holding, and the lord have no more than a formal seisin;

that the succession of more distant relatives be equally secured by the payment of reasonable relief and homage ; that the lord shall be punished if in the meantime he wastes the inheritance, and the loss be restored ; that the claim of Queen gold in addition to the relief is illegal, only a fine being due to the Queen.

domino suo quod facere debet : et ita fiat de fratre vel sorore et de avunculo seisito, si obierit sine haerede, ad nepotem suum filium primogeniti ; et si frater non habeatur, ad liberos fratris vel sororis, et sic deinceps, per rationabile relevium et homagium et relevia domino feodi facienda ; ita quod dominus feodi medio tempore nullum faciat vastum vel exilium, venditionem vel alienationem, de domibus vel boscis, vivariis, parcis sive hominibus villenagium tenentibus. Quod si hoc fecerit et inde convictus fuerit, secundum quantitatem delicti puniatur. Et omnia damna quae praedictus haeres ea occasione habuerit, sine dilatione restituet. Et cum haeres fecerit domino regi rationabile relevium cum fuerit plenae aetatis, domina regina inde petit aurum secundum aestimationem decimae partis, et videtur quod non debet habere nisi de fine.

Remedy of an heir against a lord who withholds seisin maliciously.

10. 'Et si capitalis dominus haerodem hujusmodi extra seisinam malitiose teneat, per quod per actionem mortis antecessoris vel consanguinitatis oporteat ipsum placitare, tunc damna sua recuperet sicut in actione novae disseisinae.

Right of distraint out of a fee limited to the Crown.

11. Nulli de cetero liceat ex quacunque causa distractiones facere extra feodum suum, neque in regia aut communi strata, nisi domino regi et ministris suis.

Limitation of the right of wardship of a tenant in socage.

12. Provisum est etiam quod si terra quae tenetur in socagium sit in custodia parentum haeredis, eo quod haeredes infra aetatem fuerint, custodes illi vastum facere non possunt neque venditionem nec aliquam destructionem de haereditate illa, sed salvo eam custodiant ad opus dicti haeredis ; ita quod cum ad aetatem pervenerit, sibi respondeant per legitimam computationem de exitibus dictae haereditatis ; salvis ipsis custodibus rationabilibus misis suis. Nec

etiam possunt dicti custodes maritagium dicti haeredis dare vel vendere nisi ad commodum ipsius haeredis.

13. Nullus escaetor, aut inquisitor, vel Justitia ad assisas aliquas capiendas specialiter assignatus, vel ad querelas aliquas audiendas et terminandas, de cetero potestatem habeant amerciandi pro defalta communis summonitionis, nisi capitalis Justitia vel Justitiarum itinerantes in itineribus suis.

Limitation of the right of amercement for default.

Petition of the Barons, § 13

Item petunt remedium quod cum ipsi comites et barones habeant terras suas in pluribus comitatibus, justitiarum domini regis sint itinerantes uno tempore in omnibus comitatibus praedictis, ad placitandum de omnibus placitis, et de foresta simul et semel, et nisi ipsi comites et barones compareant coram illis primo die communis summonitionis, amerciabuntur ad voluntatem domini regis pro sua absentia, nisi habeant breve domini regis de acquietantia.

The King's judges on circuit at the same time, amerce barons because they do not appear at one and the same time in the several counties in which they have land.

14. Viris autem religiosis non liceat ingredi feodum alicujus sine licentia capitalis domini, de quo scilicet res ipsa immediate tenetur.

Limitation of mortmain.

Petition of the Barons, § 10

Item petunt remedium, quod religiosi non intrent in feodum comitum et baronum et aliorum sine voluntate eorum, per quod amittunt in perpetuum custodias, maritagia, relevia et eschaetas.

They demand that men of religion shall not enter on lands upon such terms as rob the lords of the feudal dues from those lands.

15. De essoniis autem provisum est quod in comitatibus, hundredis aut curiis baronum, vel alibi, nullus habeat necesse jurare pro essonio suo warantizando.

Essoins or excuses.

Plea of false judgment limited to the King's Court.

16. Nullus de cetero excepto rege placitum teneat in curia sua de falso iudicio facto in curia tenentium suorum, quia hujusmodi placita ad coronam specialiter pertinent et dignitatem regis.

Petition of the Barons, § 29

They complain that if the immediate lord fails to do justice and the tenant applies for redress to the County Court, the next highest lord in the feudal scale claims the case for his court, and so on for as many superior lords as there are: whereas the King's writ of right makes it a matter between the immediate lord and the sheriff.

Item in pluribus comitatibus usitatum est, quod si aliquis defert breve de recto directum proximo capitali domino feodi, et petens probaverit defaultam curiae ipsius capitalis domini pro consuetudine regni, et post eat ad comitatum et petat quod adversarius suus summonetur quod sit ad proximum comitatum, veniet superior capitalis domini feodi ejusdem et petit suam curiam inde et habebit: et, probata defaulta curiae, veniet adhuc alter superior dominus feodi illius et petit similiter curiam suam et habebit: et sic de singulis capitalibus dominis quotquot fuerint superiores. Quod est aperte contra justitiam, cum in brevi contineatur quod capitalis dominus feodi cui breve dirigitur plenum rectum teneat quod vicecomes faciat, etc.

A sheriff may deliver cattle unjustly detained whether without or within liberties.

17. Provisum est etiam quod si averia alicujus capiantur et injuste detineantur, vicecomes post querimoniam inde sibi factam, ea sine impedimento vel contradictione ejus qui dicta averia cepit, deliberare possit, si extra libertates capta fuerint; et si infra libertates hujusmodi capiantur averia, et ballivi libertatum ea deliberare noluerint, tunc vicecomes per defectum dictorum ballivorum ea faciat deliberari.

No freeholder can be compelled to answer questions touching his land or to serve on the jury except by the King's licence.

18. Nullus de cetero distringere possit libere tenentes suos ad respondendum de libero tenemento suo, neque de aliquibus ad liberum tenementum suum spectantibus sine brevi regis, nec jurare faciat libere

tenentes suos contra voluntatem suam, desicut nullus hoc facere potest sine praecepto regis.

19. Provisum est etiam quod si ballivi qui compotum dominis suis reddere tenentur se subtraxerint, et terras vel tenementa non habuerint per quae distringi possint, tunc per eorum corpora attachientur, ita quod vicecomites in quorum balliis invenientur, eos venire faciant ad compotum suum reddendum.

Bailiffs can be brought to account by sheriff.

20. Item firmarii tempore suarum firmarum vastum vel venditionem vel exilium non faciant de boscis, domibus, hominibus nec de aliis aliquibus ad tenementa quæ ad firmam habuerint spectantibus, nisi specialem habeant concessionem per scripturam suae conventionis mentionem habentis quod hoc facere possint. Et si fecerint, et de hoc convincantur, damna plene refundant.

Farmers of tenements are not to make waste without special grant.

21. Justitiiarii itinerantes de cetero non amerciant villatas in itinere suo, pro eo quod singuli xii annorum non venerint coram vicecomitibus et coronatoribus ad inquisitiones de morte hominis aut aliis ad coronam pertinentibus, dum tamen de villis illis veniant sufficienter per quos inquisitiones hujusmodi plene fieri possint.

Limitations of amercements in connection with inquests.

Petition of the Barons, § 19

Item si aliqua justitiaria mandata fuerit specialiter coram aliquo justitiario assignato, vel de nova disseisina, vel de morte antecessoris, vicecomites clamare faciunt in mercatis, quod omnes milites et libere tenentes patriae veniant ad certum diem et locum audituri et facturi praeceptum regis, et cum ibi non venerint, eos amerciant pro voluntate sua.

Knights and freeholders are summoned to every special assize, and are arbitrarily amerced if they do not come.

Limitation of the
Murdrum fine.

22. Murdrum de cetero non adjudicetur coram Justitiis ubi infortunium tantummodo adjudicatum est ; sed locum habeat murdrum in interfectis per feloniam et non aliter.

Petition of the Barons, § 21

Want kills many tramps, and when at the coroner's inquest the four neighbouring townships return a verdict accordingly and nothing is said about the nationality, the murder fine is imposed on the district.

Item de eo quod multi homines de diversis partibus regni propter caristiam temporis venientes, et per diversas provincias transitum facientes, fame et inedia moriuntur, et tunc per legem terrae visum factum est per coronatores, et quatuor villatas vicinas, et cum praedictae villatae de ita mortuis nihil sciunt nec dicunt, nisi quod casu praedicto moriuntur, et quia nihil de huthesia Englescheria assignatur, amercietur patria coram justitiariis tanquam de murdro.

Willelmi I, Articuli x. § 3

If one of my followers is slain and his lord cannot get hold of the murderer, the lord shall pay me as much of a large sum of money as his possessions will yield, and the hundred in which the murder took place shall pay the rest.

Volo autem ut omnes homines quos mecum adduxi aut post me venerunt, sint in pace mea et quiete. Et si quis de illis occisus fuerit, dominus ejus habeat infra quinque dies homicidam ejus, si potuerit ; sin autem, incipiat persolvere mihi quadraginta sex marcas argenti, quamdiu substantia illius domini perduraverit. Ubi vero substantia domini defecerit, totus hundredus, in quo occisio facta est, communiter persolvat quod remanet.

Dialogus de Scaccario, I. § x

It is impossible now to distinguish between English and Norman among freemen. Consequently the death of almost any one, except a manifest villan, is punished by the murder fine.

. . . jam cohabitantibus Anglicis et Normannis, et alterutrum uxores ducentibus vel nubentibus, sic permixtae sunt nationes, ut vix discerni possit hodie, de liberis loquor, quis Anglicus quis Normannus sit genere ; exceptis duntaxat ascriptitiis qui villani dicuntur, quibus non est liberum, obstantibus dominis suis, a sui conditione discedere. Ea propter pene quicumque sic hodie occisus reperitur, ut murdrum punitur, exceptis hiis de quibus certa sunt ut diximus servilis conditionis indicia.

Limitation on the amercement of a vouchee to warranty.

23. Provisum est insuper quod nullus qui coram Justitiis itinerantibus vocatur ad warantum de placito terrae vel tenementi, amercietur de cetero pro eo quod praesens

non fuerit, excepto primo die adventus ipsorum Justitiarum: sed si warantus ille sit infra comitatum, tunc injungatur vicecomiti quod ipsum infra diem tertium vel quartum secundum locorum distantiam faciat venire, sicut in itinere Justitiarum fieri consuevit; et si extra comitatum maneat, tunc rationabilem habeat summonitionem xv dierum ad minus secundum discretionem Justitiarum et legem communem.

24. Si clericus aliquis pro crimine aliquo vel recto quod ad coronam pertineat, arestatus fuerit, et postmodum de praecepto regis in ballium traditus vel replegiatus exstiterit, ita quod hii quibus traditur in ballium eum habeant coram Justitiis, non amercientur de cetero illi quibus traditus fuit in ballium, vel alii plegii sui, si corpus suum habeant coram Justitiis, licet coram eis propter privilegium clericale respondere nolit vel non possit.

Bailees of clerks protected by privilege of clergy are not to be amerced.

V

CHARTERS OF PRIVILEGES TO TOWNS

Charter of Henry I. to London (1130-1135)

HENRICUS Dei gratia rex Angliae,
archiepiscopo Cantuariæ et episcopis
et abbatibus, et comitibus et baronibus et
justitiariis et vicecomitibus et omnibus
fidelibus suis, Francis et Anglicis, totius
Angliae, salutem.

The citizens of
London shall
hold the farm of
Middlesex, and
shall choose their
own Sheriff and
their own
justiciar ;

Sciatis me concessisse civibus meis
Londoniarum tenendum Middlesex ad
firmam pro ccc. libris ad compotum, ipsis
et haeredibus suis, de me et haeredibus meis,
ita quod ipsi cives ponent vicecomitem
qualem voluerint de se ipsis ad custodien-
dum placita coronae meae et eadem placi-
tanda ; et nullus alius erit justitiarius super
ipsos homines Londoniarum. Et cives non
placitabunt extra muros civitatis pro ullo
placito ; et sint quieti de schot et de loth,
de Danegildo et de murdro, et nullus eorum
faciat bellum. Et si quis civium de placitis

they shall be free
from any external
tribunal, and shall be free
from scot, lot,
Danegeld, the
murder fine, and
liability to trial
by battle.

coronae implacitatus fuerit, per sacramentum quod iudicatum fuerit in civitate, se disractionet homo Londoniarum.¹ Et infra muros civitatis nullus hospitetur, neque de mea familia neque de alia, nisi alicui hospitium liberetur. Et omnes homines Londoniarum sint quieti et liberi, et omnes res eorum, et per totam Angliam et per portus maris, de theolonio et passagio et lestagio et omnibus aliis consuetudinibus. Et ecclesiae et barones et cives teneant et habeant bene et in pace socnas suas cum omnibus consuetudinibus, ita quod hospites qui in soccis suis hospitantur nulli dent consuetudines suas, nisi illi cuius socca fuerit, vel ministro suo quem ibi posuerit. Et homo Londoniarum non iudicetur in misericordia pecuniae, nisi ad suam *were*, scilicet ad c. solidos; dico de placito quod ad pecuniam pertineat. Et amplius non sit *miskenninga*² in *hustenge* neque in *folkesmote* neque in aliis placitis

In pleas of the Crown they may have recourse to local custom.

They shall be free from various tolls throughout the country and at the ports.

The churches, barons, and citizens shall have secured to them their separate franchises.

A citizen of London shall be free from liability to entire forfeiture, and from the fine for a mistake in the technical record of a case;

¹ *London, Liber de Antiquis Legibus*, p. 34

Quod cives Londoniarum debent se defendere de morte hominis per xxxvi homines juratos, et pro transgressione versus regem per xii et versus alium septima manu.

² *London, Liber Albus*, p. 295

Ne nul homme pover ne foreyn, ne de conusaunce de la ley, ne soit chalaungee pur defeaute q'il ne die les paroles duez et useles solone la custome de roialme en comptaunt et en defendaunt, mais soient tieux gentz tñunementes resceux a dire lour grosse veritee.

No poor man or foreigner or one who does not know the law shall be challenged for not saying the due and usual words according to the custom of the realm in making his count and in his defence, but such people shall be suffered to state the substance of the case.

The citizens of London should rebut a charge of homicide by a jury of thirty-six, and for offences against the King by twelve, and against any one else by six.

The citizens shall have their own weekly court, their common lands, mortgages, and dues,

they shall have the right of retaliation on those who take toll from them,

or who refuse to pay their debts;

they shall have their ancient rights of coursing in Chiltern, Middlesex, and Surrey.

infra civitatem. Et husting sedeat semel in hebdomada, videlicet die Lunae. Et terras suas et vadimonia et debita civibus meis habere faciam infra civitatem et extra. Et de terris de quibus ad me clamaverint rectum eis tenebo lege civitatis. Et si quis thelonium vel consuetudinem a civibus Londoniarum ceperit, cives Londoniarum capiant de burgo vel de villa ubi thelonium vel consuetudo capta fuit, quantum homo Londoniarum pro thelonio dedit, et proinde de damno ceperit. Et omnes debitores qui civibus debita debent eis reddant, vel in Londoniis se disrationent quod non debent. Quod si reddere noluerint neque ad disrationandum venire, tunc cives quibus debita sua debent capiant intra civitatem namia sua, vel de comitatu in quo manet qui debitum debet. Et cives habeant fugationes suas ad fugandum sicut melius et plenius habuerunt antecessores eorum, scilicet Ciltre et Middlesex et Surie. Testibus etc. Datum apud Westmonasterium.

Charter of John to London (1215)

The barons of the city of London may choose a mayor for themselves every year, who may be re-elected, but must take an oath of fealty to the King :

Johannes Dei gratia rex Angliae etc. Sciatis nos concessisse et praesenti carta nostra confirmasse baronibus nostris de civitate nostra Londoniarum, quod eligant sibi majorem de seipsis singulis annis, qui nobis fidelis sit, discretus et idoneus ad regimen civitatis, ita quod cum electus fuerit, nobis vel justitiario nostro, si praesentes non fuerimus, praesentetur et nobis

juret fidelitatem : et quod liceat eis ipsum in fine anni amovere et alium substituere si voluerint, vel eundem retinere, ita tamen quod nobis ostendatur vel justituario nostro, si praesentes non fuerimus. Concessimus etiam eisdem baronibus nostris et carta nostra confirmavimus, quod habeant bene et in pace, libere, quiete, et integre omnes libertates suas, quibus hactenus usi sunt, tam in civitate Londoniarum quam extra, et tam in aquis quam in terris, et omnibus aliis locis : salva nostra chamberlengeria nostra. Quare volumus et firmiter praecipimus quod praedicti barones nostri civitatis nostrae Londoniarum eligant sibi majorem singulis annis de seipsis praedicto modo, et quod habeant omnes praedictas libertates bene et in pace, integre et plenarie, cum omnibus ad hujusmodi libertates pertinentibus, sicut praedictum est. Testibus etc. Datum ix die Maii anno regni nostri sextodecimo.

they shall also enjoy all their liberties within and without the city.

Charter of Henry II. to Lincoln (1157)

Henricus Dei gratia etc. episcopo Lincolnensi, justitiariis, vicecomitibus, baronibus, ministris et omnibus fidelibus suis, Francis et Anglis Lincolniae, salutem. Sciatis me concessisse civibus meis Lincolniae omnes libertates et consuetudines et leges suas quas habuerunt tempore Edwardi et Willelmi et Henrici regum Angliae, et gildam suam mercatoriam de hominibus civitatis et de aliis mercatoribus

The citizens of Lincoln shall have their ancient liberties and a merchant gild composed of men of the city and of merchants of the county :

All who live and trade in the city shall share in the duties and liabilities.

Absence of counterclaim for year and day confers on an individual a prescriptive right to

(a) ownership of land;

(b) freedom of person.

comitatus, sicut illam habuerunt tempore praedictorum antecessorum meorum regum Angliae melius et liberius. Et omnes homines qui infra quatuor divisas civitatis manent et mercatum deducunt, sint ad geldas et consuetudines et assisas civitatis sicut melius fuerunt tempore Edwardi, et Willelmi et Henrici regum Angliae. Concedo etiam eis quod si aliquis emerit aliquam terram infra civitatem de burgagio Lincolniae, et eam tenuerit per annum et unum diem sine calumnia, et ille qui eam emerit, possit monstrare quod calumniator exstiterit in regione Angliae infra annum et non calumniatus est eam, extunc ut in antea bene et in pace teneat eam et sine placito. Confirmo etiam eis quod si aliquis manserit in civitate mea Lincolniae per annum et unum diem sine calumnia alicujus calumniatoris, et dederit consuetudines civitatis, et cives poterint monstrare per leges et consuetudines civitatis quod calumniator exstiterit in regione Angliae et non calumniatus est eum, extunc in antea remaneat in pace, in civitate mea Lincolnia, sicut civis meus. Testibus etc. Apud Nottingham.

Charter of Henry II. to Nottingham (1155-1165)

Unmolested residence for year and day abolishes all claim of jurisdiction except that of the Crown.

Any one remaining in the

. . . Et si aliquis, undecunque sit, in burgo de Notingham manserit anno uno et die uno tempore pacis absque calumnia, nullus postea nisi rex [in eum] jus habebit. . . .

Et quicumque in burgo manserit, cujus-

cunque feodi sit, reddere debet simul cum burgensibus talliagia et defectus burgi ad implere.

borough, no matter from whom he holds, must take part in the common contributions.

Charter of Henry III. to Gloucester (1227)

. . . Concessimus etiam eisdem quod si aliquis natus alicujus in praedicto burgo manserit, et etiam in eo se tenuerit, et fuerit in gilda mercatoria et hansa et loth et scot cum eisdem burgensibus nostris per unum annum et unum diem sine calumnia, deinceps non possit repeti a domino suo, sed in eodem burgo liber permaneat.

A villan who has lived in the borough, as a member of the merchant gild and hansa, and at scot and lot with the burgesses for a year and day unclaimed, is not liable to be claimed back by his lord.

In towns on the Welsh border the form commonly used is: Si aliquis natus alicujus in praefata villa manserit, et terram in ea tenuerit et fuerit in praefata gilda et hansa et lot et scot cum eisdem, etc.

A villan who has lived in the vill as a landholder in it and a member of the gild and hansa, and at scot and lot, etc.

*Consuetudines of Newcastle-upon-Tyne
(temp. Henry I.)*

Si rusticus in burgo veniat manere, et ibi per annum unum et diem sicut burgensis maneat in burgo, ex toto remaneat, nisi prius ab ipso vel domino suo praelocutum sit ad terminum remanere.

A peasant living as a burgess for a year and day may remain so, unless he or his lord has previously said that he remains only for a period.

Glanvill, De Legibus Angliae, v. § 5

Si quis natus quiete per unum annum et unum diem in aliqua villa privilegiata manserit, ita quod in eorum communam, scilicet gildam, tanquam civis receptus fuerit, eo ipso a villenagio liberabitur

Any villan who remains for a year and day in a chartered vill as a citizen and member of the gild shall be ipso facto free from the villan status.

Charter of Richard I. to Lincoln (1194)

Apart from moneyers and royal officials, the citizens shall be amenable only to their own jurisdiction for everything within the borough.

They shall be free from the murder fine within the city and the district of the portreeve, and from obligation to trial by battle. They shall have the privileges of London in regard to pleas of the Crown; they shall be free from the forced requisitions of the marshal. They shall be free from tolls throughout England and at the ports. They shall have the privileges of London regarding liability to entire forfeiture; they shall be free from the fine for a mistake in the technical record of a case. They shall have a weekly court and jurisdiction in cases touching both real and personal property, and the power of retaliation for tolls taken elsewhere:

Ricardus Dei gratia rex Anglia, dux Normanniae et Aquitanniae, comes Andegaviae, archiepiscopis, episcopis, abbatibus, comitibus, baronibus, justitiariis, vicecomitibus, ministris et omnibus fidelibus suis, tam Francis quam Anglis, salutem. Sciatis nos concessisse civibus nostris Lincolniae quod nullus eorum placitet extra civitatem Lincolniae de aliquo placito praeter placita de tenuris exterioribus, exceptis monetariis et ministris nostris. Concessimus etiam eis quietantiam murdri infra civitatem et in portsocha, et quod nullus eorum faciat duellum, et quod de placitis ad coronam pertinentibus se possint disrationare secundum consuetudinem civium civitatis Lundoniarum, et quod infra civitatem illam nemo capiat hospitium per vim vel per liberationem marescalli. Hoc etiam concessimus quod omnes cives Lincolniae sint quieti de theloneo et lestagio per totam Angliam et per portus maris, et quod nullus de misericordia pecuniae judicetur nisi secundum legem quam habent cives nostri Lundoniarum; et quod in civitate illa in nullo placito sit miskenninga; et quod burwaremot semel tantum in hebdomada teneatur; et quod terras et tenuras et vadia sua et debita sua omnia juste habeant, quicunque eis debeat. Et de terris suis et tenuris quae infra civitatem sint, rectum eis teneatur secundum consuetudinem civitatis; et de omnibus debitis suis quae accommodata

fuerint apud Lincolniam, et de vadiis ibidem factis, placita apud Lincolniam teneantur. Et si quis in tota Anglia theloneum vel consuetudinem ab hominibus Lincolniae ceperit, postquam ipse a recto defecerit, praepositus Lincolniae namium apud Lincolniam capiat. Insuper etiam ad emendationem illius civitatis illis concessimus, quod sint quieti de bridtol, et de childwite, et de gieresgieve, et de scothale, ita quod praepositus nec alius ballivus scothalam faciat. Has praedictas consuetudines eis concessimus et omnes alias libertates et liberas consuetudines, quas habuerunt vel habent cives nostri Lundoniarum quando meliores vel liberiores habuerint, secundum libertates Lundoniarum et leges civitatis Lincolniae.

They shall have freedom from certain other exactions.

They shall have all the rights enjoyed by the citizens of London, whether stated here or not

Quare volumus et firmiter praecipimus quod ipsi et haeredes eorum haec omnia praedicta habeant et teneant haereditarie de nobis et haeredibus nostris, reddendo per annum novies viginti libras numero de Lincolnia cum omnibus pertinentiis ad scaccarium nostrum, duobus terminis, ad Pascham scilicet et ad festum Sancti Michaelis per manum praepositi Lincolniae. Et cives Lincolniae faciant praepositum quem voluerint de se per annum, qui sit idoneus nobis et eis. Testibus etc. Datum etc apud Wintoniam, etc.

In return for these privileges they shall pay £180 a year in two half-yearly instalments through a provost, whom they may appoint from among themselves annually.

Charter of John to Lincoln (1200)

Johannes Dei gratia etc. Sciatis nos concessisse (as in Richard's charter) — duo-

The citizens shall choose two of their number, subject to the royal approval, who shall keep the provostship during good behaviour:

they shall also choose four citizens to keep the pleas of the Crown, and to see that the provosts treat all classes with justice.

bus terminis, ad Pascham scilicet et ad festum Sancti Michaelis per manum praepositi Lincolniae. Praeterea volumus et concedimus quod idem cives civitatis Lincolniae per commune concilium civitatis eligant duos de legalioribus et discretioribus civibus Lincolniae, et praesentent eos capitali Justitiario apud Westmonasterium, qui bene et fideliter custodiant praeposituram civitatis Lincolniae et non amoveantur quamdiu in ballia sua se bene gesserint, nisi per commune concilium civitatis suae. Volumus etiam quod in eadem civitate Lincolniae per commune concilium civium eligantur quatuor de legalioribus et discretioribus civitatis ad custodiendum placita coronae et alia quae ad nos et coronam nostram pertinent in eadem civitate et ad videndum quod praepositi illius civitatis juste et legitime tractent tam pauperes quam divites. Testibus etc.

Charter of Henry II. to Oxford (1161)

Grant of Merchant Gild.

Henricus rex Angliae, dux Normanniae et Aquitanniae etc. Sciatis me concessisse et et confirmasse civibus meis in Oxenforde omnes libertates et consuetudines et leges et quietantias quas habuerunt tempore regis Henrici avi mei, nominatim gildam suam mercatoriam cum omnibus libertatibus et consuetudinibus in terris et in silvis, pasturis et aliis pertinentiis, ita quod aliquis qui non

sit de gildhalla aliquam mercaturam non faciet in civitate vel suburbiis, nisi sicut solebat tempore regis Henrici avi mei. Praeterea concessi eis quod sint quieti a theloneo et passagio et omni consuetudine per totam Angliam et Normanniam, per terram, per aquam, per ripam maris, by land and by strand. Et habeant omnes alias consuetudines et libertates et leges suas quas habeant communes cum civibus meis Londoniarum. Et quod ad festum meum mihi serviant cum illis de botteleria mea, et facient cum eis mercaturam suam infra Londonias et extra et in omnibus locis. Et si dubitaverint vel contemnerint de iudicio aliquo quod facere debeant, de hoc Londonias mittant nuncios suos, et quod Londonienses inde iudicabunt firmum et ratum habeant. Et extra civitatem Oxenforde non placent de aliquo unde calumniati sunt, sed de quocunque in placito ponentur se disrationabunt secundum leges et consuetudines civium Londoniarum et non aliter : quia ipsi et cives Londoniarum sunt de una et eadem consuetudine et lege et libertate. Quare volo et praecipio quod habeant praedictas libertates et leges et consuetudines et tenuras suas ita bene et in pace, etc., cum saca et soca et tol et team et infangtheof, et cum omnibus aliis libertatibus et consuetudinibus et quietantiis suis sicut eas unquam melius habuere tempore regis Henrici avi mei ; et sicut cives mei Londoniarum eas habent. Testibus etc.,

No one outside the gild shall trade in city or suburbs :

Freedom from tolls throughout England and Normandy by land or water .

All the privileges of the citizens of London :

Any doubtful matter may be referred to the decision of the men of London :

All cases are to be decided within the city and in accordance with the customs of the citizens of London, with whom the citizens of Oxford are at one in the matter of customs.

The citizens of Oxford shall have their customs and tenures with the usual rights of jurisdiction to assure them, as they had them in time past, and as the citizens of London have them,

Charter of Henry II. to Winchester

The citizens of Winchester of the Merchant Gild shall be free of tolls, etc.

. . . Praecipio quod cives mei Wintonienses de gilda mercatorum cum omnibus rebus suis sint quieti de omni theloneo, passagio et consuetudine. . . .

Charter of Archbishop Thurston to Beverley (Henry I.)

The Archbishop, by advice of the chapters of York and Beverley and of his barons, and with the sanction of the King, grants to the men of Beverley the same liberties as are enjoyed by the citizens of York.

Turstinus etc. Notum sit vobis me dedisse et concessisse, et consilio capituli Eboracensis et Beverlacensis et consilio meorum baronum mea carta confirmasse, hominibus de Beverlaco omnes libertates eisdem legibus quibus illi de Eboraco habent in sua civitate. Praeterea non lateat vos quod dominus Henricus rex noster nobis concessit potestatem faciendi hoc de bona voluntate sua, et sua carta confirmavit statuta nostra et leges nostras juxta formam legum burgensium de Eboraco. . . .

Charter of Richard I. to Bedford

If any dispute arises concerning the rights of the men of Bedford, reference shall be made to the citizens of Oxford, whose decision shall hold good, for the customs are the same in both cities.

. . . Et habeant omnes alias consuetudines per totam Angliam et libertates et leges suas quas habent communes cum civibus suis de Oxenfordia . . . et si dubitaverint vel contenderint de judicio aliquo quod facere debeant, mittant nuncios suos Oxenefordiam et quod de hoc cives judicabunt, illud sine dubio firmum et

ratum et certum habeant et faciant. . . .
Quia ipsi et cives Oxefordiae sunt de una
et eadem consuetudine et lege et libertate.

Charter of John to Newcastle-upon-Tyne (1216)

. . . Concessimus etiam eis quod nullus
eorum faciat duellum; et quod de placitis
ad coronam nostram pertinentibus se possint
disrationare secundum antiquam consue-
tudinem civitatis Winton'; . . . et quod
nullus de misericordia pecuniae judicetur
nisi secundum antiquam legem ejusdem
civitatis Winton', quam habuerunt tempori-
bus antecessorum nostrorum; . . . et de
terris suis et tenuris quae infra burgum prae-
dictum sunt, rectum eis teneatur secundum
consuetudinem civitatis Wint'; . . .

In matters
concerning pleas
of the Crown,
the money as-
sessment of
complete forfei-
ture, and lands
and tenures
within the bor-
ough, the ancient
custom of Win-
chester shall
prevail

Charter of John to Dunwich (1200)

Johannes Dei gratia etc. Sciatis nos con-
cessisse et praesenti carta confirmasse
burgensibus nostris de Dunewichge, quod
burgum de Dunewichge sit liberum burgum
nostrum, et habeat soccam et saccam et toll
et theam et infangenthef, et quod ipsi per
totam terram nostram quieti sint de theloneo
et lestagio et passagio et pontagio et stallago
et leve et de Danegelde, et de ewagio de
wrec et lagan et de omnibus aliis consuetu-
dinibus, salva libertate civitatis Londo-
niarum, et quod ipsi rectam et solitam
firmam suam per manum suam reddant

Dunwich shall
be a free borough
with the usual
rights of juris-
diction:

the citizens
shall be free
from all kinds of
tolls upon trade
throughout the
country, except
in so far as this
interferes with
the privileges of

the citizens of London:

they shall pay their own ferm direct to the exchequer.

they owe no suit to the local courts except when the King's justices are present; then they are represented by twelve of their number, and amercements are assessed by six men of the borough and six outsiders. They may marry their children where they will in the land, and also the widows with the advice of friends. they may deal as they will with their lands and buildings.

They may also have a hansa and a merchant gild.

ad scaccarium nostrum; et quod nullam sectam faciant comitatus vel hundredorum nisi coram justitiis nostris; et cum summoniti fuerint esse coram justitiis, mittant pro se xii legales homines de burgo suo qui sint pro eis omnibus; et si forte amerciari debuerint, per sex probos homines de burgo suo et per sex probos homines extra burgum amercientur. Concessimus etiam eis quod filios et filias suas possint libere ubi voluerint in terra nostra maritare, et viduas similiter per consilium amicorum suorum, et perquisitiones suas de terris et aedificiis in villa sua possint dare aut vendere aut facere inde quod voluerint et quando voluerint. Concessimus etiam eis hansam et gildam mercatoriam sicut habere consueverunt. Quare volumus et firmiter praecepimus quod praedicti burgenses nostri praenominatas libertates et liberas consuetudines habeant et teneant libere, pacifice et integre, sine omni impedimento. Datum xxix die Junii, anno regni nostri primo.

Charter of John to Ipswich (1200)

Grant of the borough with all its customs,

Johannes Dei gratia Rex etc. Sciatis nos concessisse et praesenti carta nostra confirmasse burgensibus nostris de Gypewico burgum nostrum de Gypewico cum omnibus pertinentiis suis et libertatibus et omnibus liberis consuetudinibus suis tenendum de nobis et haeredibus nostris, illis et haeredibus suis haereditarie, Reddendo per annum, rectam et solitam firmam ad terminum

in return for the usual ferm increased by a hundred shill-

Sancti Michaelis per manum Gypewici
 praepositi ad scaccarium nostrum, et centum
 solidos sterlingorum numero de incremento
 ad eundem terminum quos reddere sole-
 bant. Concessimus etiam eis quod et
 omnes burgenses de Gypewico sint quieti
 theloneo, lastagio et stallagio, passagio,
 pontagio, et omnibus aliis consuetudinibus
 per totam terram nostram et per partus
 maris: Concessimus etiam quod nullus
 eorum placitet extra burgum Gypewici de
 nullo placito praeter placita de tenuris
 exterioribus exceptis ministris nostris, et
 quod habeant gildam mercatoriam et
 hansam suam; et quod nullus hospitetur,
 nec quicquam per vim capiat infra burgum
 Gypewici; et quod terras suas et vadia sua
 et omnia debita sua juste habeant, quicunque
 ea eis debeant; et quod de tenuris et de
 terris suis quae infra burgum sunt rectum
 eis teneatur secundum consuetudinem burgi
 Gypewici et liberorum burgorum nostrorum;
 et de debitis suis quae accommodata fuerint
 apud Gypewicum et de vadiis ibidem factis,
 placita apud Gypewicum teneantur; et quod
 nullus eorum de misericordia pecuniae
 judicetur nisi secundum legem liberorum
 burgorum nostrorum. Prohibemus etiam
 quod nemo in tota terra nostra theloneum
 nec stallagium nec aliquam aliam consue-
 tudinem ab hominibus Gypewici capiat
 super decem libras forisfacturae nostrae.
 Quare volumus et firmiter praecipimus
 quod praedicti burgenses omnes praedictas
 libertates et liberas consuetudines habeant

ings, paid in one
 annual sum at
 Michaelmas by
 the provost to
 the royal ex-
 chequer.

The citizens
 shall be free
 from all kinds of
 tolls upon trade
 throughout the
 country and at
 the ports.

They are little
 amenable to out-
 side jurisdiction.
 They shall have
 their merchant
 gild and hansa.
 They are secured
 against forcible
 requisitions on
 the part of the
 Crown, and in
 enjoyment of
 their own civil
 rights.

The burgesses shall choose two of their number, with the royal approval, who shall keep the provostship during good behaviour

et teneant bene et in pace sicut eas meliores vel liberiores habuerunt et habent ceteri burgenses liberorum burgorum nostrorum Angliae salvis in omnibus civibus nostris Londoniarum libertatibus et liberis consuetudinibus suis. Praeterea volumus et concedimus quod iidem burgenses nostri per commune consilium villatae suae eligant duos de legalioribus et discretioribus hominibus villae suae et praesentent eos capitali Justiciario nostro ad scaccarium nostrum, qui bene et fideliter custodiant praeposituram praedicti burgi de Gypewico et non amoveantur quamdiu se in balliva illa bene gesserint nisi per commune consilium praedictorum burgensium. Volumus etiam quod in eodem burgo per commune consilium praedictorum burgensium eligantur quatuor de legalioribus et discretioribus hominibus de burgo ad custodiendum placita coronae et alia quae ad nos et coronam nostram pertinent in eodem burgo, et ad videndum quod praepositi illius burgi juste et legitime tractent tam pauperes quam divites. Testibus etc. xxv die Maii anno regni nostri primo.

They shall choose four of their number to keep the pleas of the Crown, and to see that the provosts treat all classes with justice.

Charter of John to Northampton (1200)

The burgesses shall appoint their own provost annually by choosing two men of the vill, and presenting them to the sheriff of the county (and he will present one

. . . Et burgenses Norhamtoniae faciant praepositum quem voluerint de se per annum, qui sit idoneus nobis et eis, hoc modo, scilicet quod idem burgenses nostri de Norhamtonia per commune consilium villatae suae eligant duos de legalioribus

et discretioribus villae suae et praesentent eos vicecomiti Norhamtoniae, et vicecomes unum illorum praesentet capitali Justitiae apud Westmonasterium, cum compotum suum reddere debet, qui bene et fideliter custodiant praeposituram villae Norhamtoniae, et non amoveantur quamdiu se in ballia illa bene gesserint, nisi per commune consilium villatae suae.

of them to the chief Justiciar at Westminster, and they will hold the provostship during good behaviour.

Charter of Henry III. to Nottingham (1255)

. . . Concessimus etiam et hac carta nostra confirmavimus eisdem burgensibus quod imperpetuum habeant returnum brevium nostrorum de summonitionibus scaccarii nostri, de omnibus ad burgum nostrum Nottingham pertinentibus, ita quod nullus vicecomes aut alius ballivus vel minister noster decetero intromittat se de hujusmodi summonitionibus aut districtionibus faciendis in praedicto burgo nisi per defectum dictorum burgensium aut ballivorum ejusdem burgi. . . .

The citizens shall have the return of the writs issued from the Exchequer in everything concerning the borough, so that no sheriff or royal bailiff shall have the enforcement of any summons or distraint, except in the event of failure on the part of the burgesses or their bailiff.

Charter of Edward I. to Nottingham (1283-4)

Rex archiepiscopis etc. salutem. Cum nos, ob certas transgressioniones quas Burgenses et Communitas villae nostrae Nottingham, fecerant ex fiducia libertatum suarum, eandem villam cum omnibus libertatibus ad ipsam spectantibus, ceperimus, et per triennium et amplius detinuerimus in manu nostra,

The burgesses, presuming on their freedom, committed certain offences, in consequence of which we took the borough into our own hands for three years or more.

We now restore
all the old privi-
leges granted by
Charter.

on condition of
an annual pay-
ment to our
exchequer of the
£ 52 originally
paid, together
with an increase
of £8

A mayor shall be
chosen annually
in a meeting of
the burgesses of
both boroughs,

and after that,
each borough
shall choose one
balliff because of
the difference of
customs in each
borough.

volentes eisdem Burgensibus et Communitati gratiam facere specialem, eandem villam, cum omnibus libertatibus quas Burgenses et homines ipsius villae per cartas progenitorum nostrorum regum Angliae prius habuerunt, restituimus eisdem ; concedendo, pro nobis et heredibus nostris, quod iidem Burgenses et Communitas omnibus eisdem libertatibus eodem modo decetero gaudeant et utantur quo tempore captionis villae praedictae in manum nostram eis juxta tenorem cartarum praedictarum, rationabiliter utebantur ; ita quod ipsi et eorum successores reddant de eadem villa nobis et heredibus nostris singulis annis, ad scaccarium nostrum, quinquiginta et duas libras, in forma qua prius eas inde nobis reddere consueverunt, et quod octo libras de incremento nobis et heredibus nostris inde nichilominus reddant annuatim. Et ad relevationem status Burgensium et aliorum hominum ejusdem villae, concessimus, pro nobis et heredibus nostris, quod ipsi de cetero habeant in eadem villa unum majorem de se ipsis, quem, congregatis burgensibus utriusque burgi ejusdem villae singulis annis in festo Sancti Michaelis, unanimi consensu et voluntate eligant, ut praesit ballivis et aliis de eadem villa in omnibus quae pertinent ad utriusque burgi ejusdem villae regimen et juvamen, et quod statim, eadem electione facta, eligant unum Ballivum de uno burgo et alium de alio burgo, pro diversitate consuetudinum in eisdem burgis habitarum, qui ea quae pertinent ad officium suum exequantur. . . .

*Extract from Charter of Henry VI. to
Nottingham (1448)*

Et ulterius, de uberiori gratia nostra, ex mero motu et certa scientia nostris, concessimus, et per praesentes confirmamus pro nobis, heredibus et successoribus nostris, nunc Burgensibus ejusdem villae Notyngham' (quae est et a diu extitit villa sub certa forma corporata), ac eorundem Burgensium heredibus et successoribus, Burgensibus ipsius villae, imperpetuum, quod villa illa de Majore et Burgensibus ex nunc imperpetuum sit corporata; et quod iidem Major et Burgenses et successores sui, Majores et Burgenses villae illius sic corporatae, sint una communitas perpetua corporata in re et nomine per nomen Majoris et Burgensium villae Notyngham'; habeantque successionem perpetuam; et quod Major et Burgenses villae illius, et successores sui praedicti, per idem nomen sint habiles et capaces in lege ad omnimoda placita, sectas, querelas et demandas, necnon actiones reales, personales et mixtas quascumque per ipsos seu contra ipsos mota seu movenda in quibuscumque Curiis nostris, heredum vel successorum nostrorum, aut aliorum quorumcunque, tam coram nobis, etc. ubicumque fuerimus, et coram nobis, etc. in Cancellaria nostra, etc. quam coram quibuscumque Justitiariis et Judicibus spiritualibus et saecularibus proseguenda et defendenda⁴; et quod in iisdem placitare possint et placitari, respondere et responderi;

(Nottingham has for a long time been a corporate town with a fixed Constitution)

The town is to be a corporation of mayor and burgesses, and they and their successors shall be a perpetual community incorporated in thing and name by the name of the Mayor and Burgesses of the town of Nottingham: they shall have perpetual succession:

they shall have the power of suing and being sued in any of the courts, royal or other, secular or spiritual:

they and their successors may acquire lands.

et quod Major et Burgenses ejusdem villae, et successores sui, per idem nomen terras, tenementa, possessiones et hereditamenta quaecumque adquirere possint, tenere sibi et successoribus suis, imperpetuum.

The town and suburbs of Nottingham shall be completely separated off from the county,

Et insuper, de habundantiori gratia nostra, ex mero motu et certa scientia nostris, concessimus, pro nobis etc. quod eadem villa Notyngham' ac procinctus ejusdem prout se extendunt vel utuntur, qui infra corpus Comitatus Notyngham' jam existunt et continentur, ab eodem Comitatu a quinto decimo die mensis Septembris proximo futuro separati, distincti, divisi, et in omnibus penitus exempti existant imperpetuum, tam per terram quam per aquam,—Castro nostro Notyngham' et mesuagio nostro vocato "le Kyngeshall" in quo est gaola Comitatum nostrorum Notyngham' et Derbiae, tantummodo exceptis, — et quod eadem villa Notyngham' et procinctus ejusdem . . . sint ab eodem die Comitatus per se, et non parcella dicti comitatus Notyngham'; et quod eadem villa Notyngham' et procinctus ejusdem . . . Comitatus villae Notyngham' per se imperpetuum nuncupentur, teneantur et habeantur.

(with the exception of the Castle of Nottingham and the Kings-hall, which contains the gaol of the counties of Nottingham and Derby)

and shall be itself a county.

Instead of two bailiffs the burgesses shall choose two sheriffs from among themselves annually,

Et quod dicti nunc Burgenses ejusdem villae et successores sui, Burgenses villae illius imperpetuum, loco duorum Ballivorum ejusdem villae, habeant duos Vicecomites in eisdem villa et procinctibus de se ipsis eligendos, necnon Vicecomitatum ejusdem villae et procinctuum . . . Et quod ex tunc Vicecomites villae illius, etc. annuatim imper-

petuum in festo Sancti Michaelis Archangeli eligentur et perficientur . . . Et quod Burgenses ejusdem villae in Vicecomites . . . eligendi, statim post electionem de se factam, sacramenta sua coram Majore villae illius, qui pro tempore fuerit, ad officium Vicecomitum Comitatus illius debite et legitime exequendum praestabunt; et quod extra eandem villam ad sacramenta sua praestanda non transibunt. . . .

who shall take an oath of office before the mayor.

Et quod . . . quilibet Burgensis ejusdem villae Notyngham' in Majorem villae illius . . . eligendus eo ipso et quam citius in Majorem villae illius electus fuerit . . . sit ex nunc Escaetor noster, heredum et successorum nostrorum, in villa et procinctibus illis durante toto tempore quo aliquis hujusmodi Burgensis in officio Majoratus villae illius steterit. . . .

The mayor shall be the royal escheator.

Et quod iidem nunc Burgenses villae illius et successores sui imperpetuum habeant Curiam ibidem ad eorum libitum de omnibus et singulis contractibus, conventionibus, et transgressionibus tam contra pacem quam aliter factis . . . de die in diem in Guyhalla . . . coram Majore . . . ac Vicecomitibus . . . tenendam. . . .

The burgesses may have a court, to be held daily in the Guildhall before the mayor and sheriffs for all kinds of cases:

Et quod dicti Escaetor et Vicecomites . . . quolibet anno separatim profra sua facere et computare possint coram Thesaurario et Baronibus de scaccario nostro . . . per attornatus eorundem Escaetoris et Vicecomitum ad hoc separatim deputatos . . . de quibuscumque rebus officia Escaetoris et Vicecomitum ejusdem villae tangentibus

The escheator and sheriffs shall each every year render their accounts by their representatives to the Treasurer and the Barons of the Exchequer.

The burgesses shall have the chattels of all condemned for felonies, murder, or other offences :

all amercement, redemptions, forfeitures, fines for offences, and for final agreement.

The burgesses shall choose from among themselves from time to time seven Aldermen (one of whom is to be chosen Mayor), and they shall ordinarily hold their places for life.

If one of them dies or resigns, the Mayor and burgesses shall fill up his place.

The Aldermen shall be justices of the peace within the boundaries.

Neither the Seneschal nor the Marshall of

unde computabiles fuerint . . . Concessimus etiam burgensibus . . . catalla quarumcunque personarum tam ad sectam nostram . . . quam aliorum quorumcunque pro aliquibus feloniis, murdris aut aliis offensis dampnatarum. . . . Et quod . . . habeant imperpetuum omnia amerciamenta, redemptiones, et exitus forisfactos . . . ac omnes fines pro transgressionibus . . . ac etiam fines pro licentia concordandi et omnia quae ad nos et heredes nostros quovis modo pertinere poterunt de hominibus vel aliquibus tenentibus vel habitantibus villae illius . . . Et ulterius . . . concessimus . . . quod iidem Burgenses . . . de tempore in tempus eligere possint de se ipsis septem Aldermannos, quorum quidem Aldermannorum unus semper in Majorem villae illius eligatur ac Major ejusdem villae existat : qui quidem Aldermanni . . . durante vita sua permanent . . . nisi ipsi, aut eorum aliquis, per suam specialem requisitionem residuis burgensibus . . . faciendam . . . et quod obiente seu qualitercunque decedente vel amoto hujusmodi Aldermanno . . . habeant Major et Burgenses . . . plenam potestatem . . . eligendi unum burgensem de se ipsis in Aldermannum villae illius loco ipsius Aldermanni sic obientis etc. . . . Et quod Aldermanni . . . sint Justitiiarii nostri . . . ad pacem infra eandam villam et libertatem et procinctus etc. conservandam imperpetuum. . . . Et insuper . . . concessimus . . . quod Senescallus et Marescallus Hospitii nostri . . . ac Clericus Mercati nostri . . . de cetero

nec in praesentia nostra nec in absentia nostra . . . non ingrediantur nec sedeant . . . infra eandam villam etc. ad officia sua . . . ibidem in aliquo exercenda.

the royal hospital, nor the Clerk of the royal market shall exercise his office within the town.

Writ of Quo Warranto brought against the Corporation of Bristol, February, 1682-3

Memorandum quod Robertus Sawyer, miles, attornatus domini regis nunc generalis, qui pro eodem domino rege in hac parte sequitur, in propria persona sua venit hic in curia dicti domini regis coram ipso rege apud Westmonasterium die lunae proximo post Octabus Purificationis beatae Mariae Virginis ipso eodem termino ; et pro eodem domino rege dat curiae hic intelligi et informari, quod major, burgenses et communitas civitatis Bristoll' in comitatu ejusdem civitatis per spatium unius mensis jam ultimo elapsi et amplius, absque aliquo warranto sive regali commissione infra civitatem Bristoll' et comitatum ejusdem civitatis usi fuerunt et adhuc utuntur, et clamant habere et uti libertatibus, privilegiis et franchisesis sequentibus ; viz., Fore de seipsis unum corpus incorporatum et politicum in re, facto et nomine, per nomen majoris, burgensium et communitas civitatis Bristoll', ac per idem nomen placitare et implacitari, respondere et responderi ; ac etiam habere vicecomites civitatis praedictae et comitatus ejusdem civitatis ; necnon eligere, nominare et appunctuare ex seipsis duas personas

The Attorney-General of the King has informed the Court of King's Bench that the Mayor, burgesses, and community of the county of the city of Bristol without any royal warrant or commission, exercise and claim the following privileges :—

That they are a Corporation,

able to sue and be sued.

with the power of choosing two out of their own number to be sheriffs :

that these sheriffs have the execution and return of all royal writs,

and all other powers of a sheriff :

that the Mayor and Aldermen are royal justices of the peace within the city ;

that they can hold sessions of the peace and pleas of the Crown, and can hear and determine all felonies, etc., without any special commission from the Crown ;

that they hold a gaol delivery :

annuatim fore vicecomites civitatis praedictae et comitatus ejusdem civitatis : ac personas illas sic electas, nominatas et appunctuatas praeficere et constituere vicecomites civitatis praedictae et comitatus ejusdem civitatis ad executionem et retornationem omnium brevium, praeceptorum et billarum domini regis pro executione et administratione justitiae infra civitatem praedictam et comitatum ejusdem civitatis faciendam et exequendam, necnon ad faciendum et exequendum ea omnia et singula quae ad officium vicecomitum civitatis praedictae et comitatus ejusdem civitatis infra civitatem praedictam et comitatum ejusdem civitatis pertinent et incumbunt : necnon quod major et aldermanni ejusdem civitatis fuerint justiciarii dicti domini regis ad pacem, infra eandam civitatem et comitatum ejusdem civitatis conservandam ; ac ad sessiones pacis in et pro civitate praedicta et comitatu ejusdem civitatis tenendas, ac placita coronae ibidem tenenda ; ac ad omnes felonias, transgressiones, contemptus, riottas, routas et illicita conventicula infra civitatem praedictam et comitatum ejusdem civitatis ad libita sua et ex auctoritate ipsorum propria, absque aliqua commissione sive alia auctoritate a domino rege nunc obtenta in ea parte sive concessa, audiendas et terminandas : necnon habere et tenere infra civitatem praedictam et comitatum ejusdem civitatis unam goalae deliberationem, et prisonarios in goala domini regis, infra civitatem praedictam et comitatum ejusdem

civitatis ad libita sua exonerare et deliberare ; necnon eligere ex seipsis unum commune-concilium consistens de quibusdam civibus civitatis praedictae, excedens numerum quinquaginta personarum : ac etiam habere et tenere infra praedictam civitatem et comitatum ejusdem civitatis quandam domum-conciliarium ; ac in eadem domo tenere quandam curiam sive convocationem ; ac in eadem curiâ conciliariâ diversa statuta, leges, ordinationes et constitutiones ordinare, facere et constituere ad libita sua propria ; et omnes illos qui statutis, ordinationibus, legibus et constitutionibus illis obedire negarent imprisonare, ac fines et amerciamenta super ipsos eâ de causâ taxare et imponere, et fines et amerciamenta illa ad usus suos proprios recipere, habere et convertere, absque aliquo inde dicto domino regi nunc computo faciendo seu reddendo ; de quibus omnibus et singulis libertatibus, privilegiis et franchesiis praedicti iidem, major, burgenses et communitas civitatis Bristoll' praedictae et comitatus ejusdem civitatis supra dictum dominum regem nunc per totum tempus praedictum usurpaverunt et adhuc usurpant in dicti domini regis nunc et suae praerogativae grave damnum, ac in contemptum dicti domini regis nunc coronae et dignitatis suae etc. Unde idem attornatus dicti domini regis nunc generalis pro eodem domino rege petit advisamenta curiae hic in praemissis et debitos legis processus versus praefatos majorem, burgenses et communitatem civitatis Bristoll' praedictae et comi-

that they elect from themselves a Common Council of more than fifty persons ;

that they have a town hall, and in it hold a meeting in which they make their own ordinances, obedience to which they enforce by imprisonment or fines, which fines they appropriate without rendering any account to the Crown.

The exercise of all these powers is an usurpation of the King's prerogative and a contempt of the rights of the Crown.

Wherefore the Attorney - General of the King demands the opinion of the court and due process of law against the mayor, etc., to make them answer to the

King by what
warrant they
claim to exercise
these powers.

tatus ejusdem civitatis, ad respondendum dicto domino regi, quo warranto clamant habere et uti libertatibus, privilegiis et franchises praedictis etc.

The Charter of Charles II. to Bristol, 1684,

while restoring the old privileges, nominates the officials, demands from them the necessary and usual oaths, and adds the following proviso :—

We reserve to
ourselves and
our successors
the full power
of removing at
any time the
mayor, recorder,
any of the alder-
men, the sheriffs,
and any of the
Common Coun-
cil, the Common
clerk, the senes-
chal, or the
coroners, by an
order of the
Privy Council
under the privy
seal.

Proviso semper ac plenam potestatem et auctoritatem nobis, heredibus et successoribus nostris per praesentes reservamus de tempore in tempus et ad omnia tempora imposterum ad majorem, recordatorem et aliquem vel aliquos aldermannos vel vicecomites et aliquem vel aliquos de communi consilio vel communem clericum, senescallum vel coronatores civitatis praedictae per praesentes nominatos et constitutos, vel imposterum nominandos, et eligendos ad libitum et beneplacitum nostrum, heredum vel successorum nostrorum per aliquem ordinem nostrum, heredum vel successorum nostrorum in privato concilio factum et sub sigillo privati concilii praedicti eisdem respective significatum, ad amovendum et amotum et amotos esse declarandos.

*Surrender of the Charter of Rochester to
James II.*

To all Christian people to whom etc. We the Mayor and citizens of the City of Rochester, considering how much it imports the government of this city to have persons of known loyalty and integrity to bear offices and places of trust therein, and for diverse other good causes and considerations us thereunto moving, have granted, surrendered, and rendered up, and by these presents do grant etc. unto our Most Gracious Sovereign Lord, James the Second, by the grace of God etc., all and singular the powers, franchises, liberties, privileges, and authorities whatsoever and howsoever granted or to be used or exercised. February 9, 1687. Anno 4^{to} Regis.

*Letters Patent of James II. for the Municipal
Reconstitution of the Borough of Ipswich*

Definite individuals are appointed to the various offices and the following dispensatory provision is added :—

Et ulterius pro diversis causis et considerationibus nos ad hoc specialiter moventibus de gratia nostra speciali et certa scientia et mero motu nostris et virtute Prerogativae nostrae Regiae dispensavimus, pardonavimus, remisimus et exoneravimus, ac per praesentes pro nobis, heredibus et successoribus nostris dispensamus etc. Willelmum Brown etc.

We dispense all those officials within the borough now and in future from taking the Oath of Supremacy mentioned in an Act of the first year of Queen Elizabeth, and the Oath of Allegiance mentioned in an Act of the third year of King James I or in any other Act of Parliament, and also from taking the oath mentioned in an Act of Charles II., and also from taking the Sacrament according to the rites of the Church of England.

et omnes alios officarios sive ministros respective infra eandam villam sive burgum in futuro nominandos, eligendos vel admit- tendos ab omni prestatione et receptione juramenti Primaciae, Anglice, the Oath of Supremacy, mentionati in quodam actu parlamenti dominae Elizabethae nuper Angliae reginae anno regni sui primo seu in aliquo alio statuto sive actu parlamenti : ac etiam de et ab prestatione et receptione juramenti Ligeantiae, Anglice, the Oath of Allegiance or Obedience, mentionati seu expressi in quodam actu parlamenti facto in parlamento domini Jacobi Primi avi nostri nuper regis Angliae anno regni sui tertio tento seu in aliquo alio statuto sive actu parlamenti : ac etiam de et ab prestatione et receptione juramenti mentionati et contenti in quodam statuto facto in parlamento domini Caroli Secundi etc. etc : ac etiam de et ab omni receptione Cenaе Dominicae, Anglice, the Sacrament of the Lord's Supper, secundum ritum seu usum ecclesiae Anglicanae etc.

VI

EARLY LEVIES OF TAXATION

Ordinance of the Saladin Tithe (1188)

1. **U**NUSQUISQUE decimam reddituum et mobilium suorum in eleemosynam dabit hoc anno, exceptis armis et equis et vestibus militum, exceptis similiter equis et libris et vestibus et vestimentis et omnimoda capella clericorum, et lapidibus pretiosis tam clericorum quam laicorum.

A tenth of rents and movables demanded from every one, with exemption of certain kinds of goods from payment.

2. Colligatur autem pecunia ista in singulis parochiis, praesente presbytero parochiae et archipresbytero, et uno Templario et uno Hospitalario, et serviente domini regis et clerico regis, serviente baronis et clerico ejus, et clerico episcopi; facta prius excommunicatione ab archiepiscopis, episcopis, archipresbyteris singulis in singulis parochiis, super unumquemque qui decimam praetaxatam legitime non dederit, sub praesentia et conscientia illorum qui debent, sicut dictum est, interesse. Et si aliquis juxta

Arrangements for the collection :

Excommunication pronounced against those who refuse to pay :

in any case of dispute as to amount of liability, the assessment shall be made by a jury of four or six men of the parish.

Crusaders shall not be taxed, but shall be helped to collect their debts.

conscientiam illorum minus dederit quam debuerit, eligentur de parochia quatuor vel sex viri legitimi, qui jurati dicant quantitatem illam quam ille debuisset dixisse; et tunc oportebit illum superaddere quod minus dedit.

3. Clerici autem et milites qui crucem acceperunt nihil de decima ista dabunt, sed de proprio suo et dominico; et quicquid homines illorum debuerint ad opus illorum colligetur per supradictos, et eis totum reddetur.

*Writ for the Collection of a Fifteenth*¹ (1225)

On a specified day all the Knights of the county are to be assembled, and Knights are to be chosen from each hundred or wapentake, varying in number with the size of the district, to

Rex Willelmo Basset, Radulfo de Crombwell et Roberto de Lee clerico, salutem. Assignavimus vos justitarios nostros ad quintam decimam omnium mobilium assidendam et colligendam ad opus nostrum in comitatibus Notingham et Dereby, in hac forma. Vicecomes noster Notingham et Dereby coram vobis venire faciet omnes milites comitatum suorum die Dominica proxima ante mediam Quadragesimam apud Notingham ad quem diem eligi facietis quatuor legales milites de singulis hundredis

¹ *Magna Carta* (1225)

The last clause reads:

Grant of a fifteenth of movables in return for the Charters.

Pro hac autem concessione et donatione libertatum istarum et aliarum libertatum contentarum in carta nostra de libertatibus forestae, archiepiscopi etc. milites, libere tenentes et omnes de regno nostro, dederunt nobis quintam decimam partem omnium mobilium suorum.

vel wapentaccis, vel plures vel pauciores, secundum magnitudinem hundredorum vel wapentaccorum, ituros per singulos hundredos vel wapentaccos ad assidendum et colligendum quintam decimam omnium mobilium praedictorum. Exceptis tamen ab hac quinta decima quantum ad archiepiscopos, episcopos, abbates, priores et ceteros viros religionis, comites, barones, milites et liberos homines qui non sunt mercatores, omnimodis libris suis, et ornamentis ecclesiarum et capellarum, et equis ad equitandum, et equis carectariis et sumnariis et armis omnimodis; jocalibus, vasis, utensilibus, lardariis, cellariis et foenis; et exceptis bladis ad warnisturam castrorum emptis. Exceptis etiam ab hac quinta decima quantum ad mercatores qui de omnibus mercandis et mobilibus suis quintam decimam dabunt, armis ad quae jurati sunt, et equis suis ad equitandum, et utensilibus domorum suarum, cellariis et lardariis ad victum suum. Exceptis etiam quantum ad villanos armis ad quae jurati sunt, et utensilibus suis, carne et pisce et potu suo quae non sunt ad vendendum, et foenis suis et furratio suo quae non sunt ad vendendum. Milites autem illi non ibunt in hundredos vel wapentaccos in quibus sunt residentes, sed in hundredos vel wapentaccos vicinos alios. Jurabit autem unusquisque exceptis comitibus, baronibus et militibus, propriorum mobilium suorum, et similiter mobilium duorum vizinorum suorum propinquorum, numerum, quantitatem et valorem.

assess and collect the fifteenth.

Exemptions of certain chattels from assessment for the levy are allowed in the case of (1) all freemen, whether secular or ecclesiastical, who are not merchants.

(2) Merchants.

(3) Villan tenants.

The knights are not to act in the districts in which they live.

Each one below the rank of knight shall swear as to his own movables and those of two neighbours : in case of disagreement an inquiry shall be made by a jury of neighbours.

For knights and lords, their servants and stewards shall swear as to their movables.

The money shall be paid in two halves.

Four men and the reeve of each vill shall bring the money to the four knights of the hundred, who shall give them a receipt by tally, and shall give the money to the appointed justices who are responsible for keeping it safely.

Et si forte inter ipsum cujus mobilia sunt et vicinos suos juratos de eisdem mobilibus dissensio ex hoc orta fuerit, milites ipsi per sacramentum duodecim proborum et legalium hominum vicinorum, vel totidem quot sufficere viderint ad veritatem inde inquirendam, veritatem inquirent et secundum illam veritatem quintam decimam capiant. Servi-entes vero et praepositi de terris comitum, baronum et militum, vel praepositi tantum si servientes ibi non fuerint, idem et eodem modo jurabunt de mobilibus dominorum suorum in singulis villis. Medietas autem hujusmodi quintae decimae perpacabitur ad festum Sanctae Trinitatis anno nono, et alia medietas ad festum Sancti Michaelis proxime sequens. Quam quidem quintam decimam milites illi recipient per manus quatuor legalium hominum et praepositorum singularum villarum, per tallias inter eos inde factas, et sic receptam ferent ad vos, et vos eam reponetis in loco tuto, sive in ecclesia cathedrali, sive in abbacia, sive in prioratu ejusdem comitatus, sub sigillis vestris et sigillis militum, donec provisum fuerit quo mitti debeat. . . .

Writ for the Collection of a Thirtieth (1237)

An assembly composed of all classes of free-men from highest to lowest, have granted to the King, on behalf of themselves and their

Rex vicecomiti Kantiae salutem. Scias quod cum in octavis Sancti Hilarii anno regni nostri vicesimo primo, ad mandatum nostrum convenirent apud Westmonasterium archiepiscopi etc. et barones totius

regni nostri, et tractatum haberent nobiscum de statu nostro et regni nostri, iidem archiepiscopi etc. et liberi homines, pro se et suis villanis, nobis concesserunt in auxilium tricesimam partem omnium mobilium suorum apparentium, sicut ea habebunt in autumnno in crastino Exaltationis Sanctae Crucis, anno regni nostri vicesimo primo, quando blada sua fuerint coadunata; videlicet de bladis, carucis, ovibus, vaccis, porcis, haraciis, equis caretariis assignatis ad wainnagia, et aliis pecoribus et bonis. Exceptis etc. Colligendam per manus dilectorum fidelium nostrorum Rogeri de Leburn (and four other names). . . . Et ipsi quatuor milites et clericus praedictus eligi facient quatuor de legalioribus hominibus de singulis villis, quos statutis hundredis in comitatu tuo, certis die et loco coram eisdem ad mandatum eorum coram eis venire facies, qui jurabunt coram eisdem in praesentia ballivorum de singulis villis si interesse voluerint, quod auxilium illud fideliter assidebunt et rationabile pretium apponent omnibus rebus quae appretiandae fuerint, secundum communem et justam aestimationem et valorem, amore, gratia vel odio, vel alia occasione non impediante. Et postea particulas catallorum omnium et pretium ostendent quatuor militibus praedictis et clerico, et juxta provisionem dictorum militum et clerici pecuniam colligent, et eisdem militibus et clerico deferent et liberabunt per taillias et rotulos particulas continentes, reponendam

unfree tenants, an aid of a thirtieth part of the movables which they owned on a particular day after the harvest.

It is to be collected by definitely named people.

These shall procure the choice of four men in each vill, who at certain times and places shall swear before the collectors that they will fairly assess the aid.

They shall show the details of their assessment, and collect the money at the direction of the Commissioners, to whom they shall give the money in return for a receipt by tally and from whom, if neces-

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sary, they shall get aid in distraining the unwilling to pay.

No one with less than forty pennyworth of goods shall pay. In return for this aid the King again confirms the Charters.

in prioratu Sanctae Trinitatis Cantuariæ; et si indiguerint auxilio tuo circa districtionem faciendam in collectione dictae pecuniae, tu eis auxilium parabis. . . . Nullus autem pauper homo vel mulier aliquid ad hoc conferet, nisi habeat in bonis plus quam quadraginta denarios. . . . Nos autem concessimus praedictis archiepiscopis etc. et aliis magnatibus regni nostri, quod tam carta nostra de foresta quam alia de libertatibus, quas prius eis fieri fecimus, de cetero in omnibus teneantur. . . .

Writ for the Collection of a Fortieth (1232)

All classes of freemen from highest to lowest and the unfree men have granted to the King an aid of a fortieth part of the movables which they owned on a particular day.

The assessment of the tax upon individuals is to be made upon the oath of the reeve of each vill acting with four men chosen in each vill.

. . . Sciatis quod archiepiscopi, episcopi, abbates, priores, et clerici terras habentes quae ad ecclesias suas non pertinent, comites, barones, milites, liberi homines, et villani de regno nostro, concesserunt nobis in auxilium quadragesimam partem omnium mobilium suorum apparentium. . . . Provisum est generaliter a praedictis fidelibus nostris, quod praedicta quadragesima hoc modo assideatur et colligatur; quod videlicet de qualibet villa integra eligantur quatuor de melioribus et legalioribus hominibus una cum praepositis singularum villarum, per quorum sacramentum quadragesima pars omnium mobilium praedictorum taxetur et assideatur super singulos, in praesentia militum assessorum ad hoc assignatorum. . . .

Collection of the first Carucage (1198)

Eodem anno Ricardus rex Angliae cepit de unaquaque carucata terrae sive hyda totius Angliae quinque solidos de auxilio, ad quos colligendos misit idem rex per singulos comitatus Angliae unum clericum et unum militem, qui cum vicecomite comitatus ad quem mittebantur et legalibus militibus ad hoc electis, praestito juramento quod fideliter exsequerentur negotium regis, fecerunt venire coram se senescallos baronum illius comitatus, et de qualibet villa dominum vel baillivum villae et praepositum cum quatuor legalibus hominibus villae, sive liberis, sive rusticis; et duos milites legaliores de hundredo; qui juraverunt, quod fideliter et sine fraude dicerent quot carucarum wannagia fuerint in singulis villis, quot scilicet in dominico, quot in villenagio, quot in elemosynis viris religiosis collatis, quas ipsi donatores vel eorum haeredes tenentur warantizare vel adquietare, vel unde viri religiosi debent servitium facere; et super singula carucarum wannagia ponebant ex praecepto regis primo duos solidos, et postea tres solidos; et haec omnia in scriptum redigebantur; . . . Haec pecunia recipiebatur per manus duorum legalium militum de singulis hundredis, et per manum ballivi de hundredo; et ipsi inde responderunt vicecomiti, et . . . respondebat vicecomes inde ad scaccarium coram episcopis, abbatibus, et bāronibus ad hoc assignatis. . . .

Richard took an aid of five shillings on each carucate or hide. For its collection there were appointed a clerk and a knight in each county. They, the sheriffs and knights appointed for the purpose, all swore to do the King's bidding. They called before them the stewards of the barons, and from each vill the lord or his bailiff and the reeve and four men, whether free or villans, and two knights from the hundred. These stated on oath the number of ploughs in the vill, whether on the demesne, on villan land, or on land in frankalmoin, and the land worked by each plough they assessed first at two shillings, and then at three shillings more.

They handed over this money to two knights of each hundred and the bailiff of the hundred, who were answerable to the Sheriff, who in turn was answerable to the Exchequer.

Writ for the Collection of a Carucage (1220)

The magnates have made a grant of two shillings on each ploughland, to be collected by the sheriff and two knights of the shire, who freely and at the counsel of the full County Court shall have been elected for the purpose

Rex vicecomiti . . . salutem. Scias quod pro magna necessitate nostra et urgentissima debitorum nostrorum instantia, necnon et pro conservatione terrae nostrae Pictaviae, concesserunt nobis sui gratia communiter omnes magnates et fideles totius regni nostri donum nobis faciendum, scilicet de qualibet caruca sicut juncta fuit in crastino Beati Johannis Baptistae proximo praeterito, anno regni nostri quarto, duos solidos, per manum tuam et duorum de legalioribus militibus comitatus tui colligendos, qui de voluntate et consilio omnium de comitatu in pleno comitatu eligentur ad hoc faciendum. Et ideo tibi praecipimus firmiter et districte injungentes quatenus, convocato comitatu tuo pleno, de voluntate et consilio eorum de comitatu, eligi facias duos de legalioribus militibus totius comitatus qui melius sciant, velint et possint huic negotio ad commodum nostrum intendere, et illis tecum assumptis statim donum illud per totam bailliam tuam facias assideri et colligi de singulis carucis, sicut praedictum est. . . .

Commutation of Service of Feudal Levy (1205)

Out of every ten knights one shall be chosen to serve, and shall be paid by

Rex etc. vicecomiti etc. Scias quod provisum est cum assensu archiepiscoporum, episcoporum, comitum, baronum et omnium

fideliū nostrorū Angliæ, quod novem milites per totam Angliam invenient decimum militem bene paratum equis et armis ad defensionem regni nostri; et quod illi novem milites invenient decimo militi qualibet die duos solidos ad liberationem suam. . . .

the other nine at the rate of two shillings a day.

Commutation of Service of Jurati ad arma
(Henry III)

Mandatum est vicecomiti Gloucestriae quod, non obstante mandato regis ei facto de hominibus juratis ad arma et securibus veniendis ad exercitum regis, venire faciat tamen homines juratos ad ferrum, videlicet loricas et haubiones et purpunctos; faciat revenire ad eundem exercitum ducentos homines cum ducentis securibus et cum victualibus suis quadraginta dierum, quae eis vicecomes faciat inveniri per homines comitatus sui juratos ad alia minuta arma, quos rex vult remanere in partibus suis. . . .

The sheriff is to find two hundred of the men sworn to arms, and to send them to join the royal army provided with food for forty days, which has been supplied to them by the rest of the men sworn to arms whom the King does not call out.

VII

WRITS OF SUMMONS TO COUNCILS AND PARLIAMENT

Writ of Individual Summons to a Great Council (1205)

The Bishop of Salisbury, as one of the magnates of the kingdom, is summoned to advise the King on business of the kingdom :

REX episcopo Sarisburiensi. Mandamus vobis rogantes quatenus omni occasione et dilatione postpositis, sicut nos et honorem nostrum diligitis, sitis ad nos apud Londonias die Dominica proxima ante Ascensionem Domini, nobiscum tractaturi de magnis et arduis negotiis nostris et communi regni nostri utilitate, quoniam super hiis quae a rege Franciae per nuncios nostros et suos nobis mandata sunt, unde per Dei gratiam bonum speramus provenire, vestrum expedit habere consilium et aliorum magnatum terrae nostrae quos ad diem illum et locum fecimus convocari ; vos etiam ex parte nostra et vestra abbates et priores conventuales totius diocesis vestrae citari faciatis ut concilio praedicto nobiscum intersint, sicut diligunt nos et communem regni utilitatem.

he is to send on the summons to the abbots and priors of his diocese.

The Council of St. Albans (1213)

In crastino autem misit rex litteras ad omnes vicecomites regni Angliae, praecipiens ut de singulis dominicorum suorum villis quatuor legales homines cum praeposito apud Sanctum Albanum pridie nonas Augusti facerent convenire, ut per illos et alios ministros suos de damnis singulorum episcoporum et ablatis certitudinem inquireret, et quid singulis deberetur. (Matt. Paris, p. 239, 1213).

Four men and the reeve were summoned from each vill of the King's demesne lands to help in assessing the losses of the bishops who had suffered from the King's action in consequence of the interdict.

Writ of Summons for Representative Members to a Great Council (1213)

Rex Vicecomiti Oxon. salutem. Praecipimus tibi quod omnes milites baillivae tuae, qui summoniti fuerunt esse apud Oxoniam ad nos a die Omnium Sanctorum in quindecim dies venire facias cum armis suis: corpora vero baronum sine armis similiter: et quatuor discretos homines de comitatu tuo illuc venire facias ad nos ad eundem terminum ad loquendum vobiscum de negotiis regni nostri. Teste me ipso apud Wytteñ, vii. die Novembris.

Besides the armed knights of the districts and the barons without arms, the sheriff shall summon four men of the county to discuss national matters.

Eodem modo scribitur omnibus vicecomitibus.

Writ of Summons for two Knights of the Shire to Grant an Aid (1254)

Rex Vicecomiti Bedeford et Bukingeham, salutem. Cum comites et barones et ceteri

The King, of Castile threatens to invade Gas-

cony, and the Earls and barons have promised to be ready three weeks after Easter to embark at Portsmouth.

We order you, therefore to compel all tenants-in-chief who hold lands worth twenty pounds a year, or their representatives, to do the same service;

We order you also to see that two knights chosen by the County Court assemble with Knights from the other counties at Westminster, as representatives of the counties in granting us an aid in our great necessity.

And you must make it your business to induce the knights to grant a good aid.

magnates regni nostri nobis firmiter promiserint, quod erunt Londoniis a die Paschae proximo futuro in tres septimanas cum equis et armis parati et bene muniti ad tendendum sine ulla dilatione versus Portesmouth, ad transfretandum ad nos in Vasconiam contra regem Castellae qui terram nostram Vasconiae in manu forti in aestate proximo futura hostiliter est ingressurus, et tibi mandaverimus quod omnes illos de ballia tua qui tenent xx libratas terrae de nobis in capite, vel de aliis qui sunt infra aetatem et in custodia nostra, ad idem distringes; tibi districte praecipimus, quod praeter omnes praedictos venire facias coram consilio nostro apud Westmonasterium in quindena Paschae proximo futuri, quatuor legales et discretos milites de comitatibus praedictis quos iidem comitatus ad hoc elegerint, vice omnium et singulorum eorundem comitatum, videlicet duos de uno comitatu et duos de alio, ad providendum, una cum militibus aliorum comitatum quos ad eundem diem vocari fecimus, quale auxilium nobis in tanta necessitate impendere voluerint. Et tu ipse militibus et aliis de comitatibus praedictis necessitatem nostram et tam urgens negotium nostrum diligenter exponas, et eos ad competens auxilium nobis ad praesens impendendum efficaciter inducas; ita quod praedicti quatuor milites praefato consilio nostro ad praedictum terminum praecise respondere possint super praedicto auxilio pro singulis comitatum praedictorum.

Firmiter etiam tibi praecipimus quod omnia debita quae nobis a retro sunt in baillia tua et solvi debuerunt ad scaccarium nostrum ante Pascha jam instans, vel solvi debent ad scaccarium ejusdem Paschae, habeas ad idem scaccarium in quindena praedicti Paschae, sciturus quod nisi praedicta debita tunc ibidem habueris non solum corpus tuum arrestari faciemus, sed debita illa de terris et tenementis tuis levare faciemus, ad damnum tuum non modicum. T. A. Regina et R. comite Cornubiae apud Windlesoram xi. die Februarii.

And you must pay up to the Exchequer all that you owe it within a fortnight after Easter.

Writ for Assembling the County Court before the Itinerant Justices (1231)

Rex vicecomiti Eboracensi, salutem. Summone per bonos summonitores omnes archiepiscopos, episcopos, abbates, priores, comites, barones, milites et omnes libere tenentes, de tota ballia tua, et de qualibet villa quatuor legales homines et praepositum, et de quolibet burgo duodecim legales burgenses per totam balliam tuam, et omnes alios qui coram justitiariis itinerantibus venire solent et debent, quod sint apud Eboracum in octavis Sanctae Trinitatis anno regni nostri decimo quinto, coram dilecto et fideli nostro S. de Segrave, etc. quos justitios nostros constituimus, audituri et facturi praeceptum nostrum. . . .

The sheriff is to summon all barons, lay and ecclesiastical, knights and freeholders, within his district, the reeve and four men from each vill, twelve burgesses from each borough, and all who should meet the King's judges in their eyres.

Clerical Objection to Arbitrary Taxation (1255)

The King having assembled all the tenants-in-chief of the Crown, lay and ecclesiastical, asked the clerical members, as a preliminary attempt, to make him a grant from their lay fees to help him in his project on the Crown of Sicily, intending to repeat the demand to the laity, both great and small. But the clergy, both prelates and representatives of the beneficed clergy, made a representation to the Pope that the tithe which he granted the King without consulting them was a great hardship.

Post festum Sancti Michaelis . . . tenuit rex parliamentum suum apud Westmonasterium, convocatis ibidem episcopis, abbatibus et prioribus, comitibus et baronibus et totius regni majoribus, in quo petebat a clero de laicis feodis suis sibi suffragium exhiberi ad negotium stulte et incircumspecte pro regno inchoatum Siciliae proseguendum; disponens de suo consilio iniquo hoc prius a clero, et postmodum a populo majori et minori extorquere. Episcopi vero, abbates, priores et procuratores qui ibidem pro universitate affuerunt . . . gravamina summo pontifici . . . destinarent. . . . "Procuratores clericorum beneficiorum archidiaconatus Lincolniae pro tota communitate proponunt quod gravati sunt quod decima beneficiorum suorum domino regi fuit concessa ipsis non vocatis." (Ann Burton, p. 336, 1255.)

The Government of Simon de Montfort

Writ for the Conservation of the Peace and Summons to Parliament (1264)

Peace having been made between King and barons, as a temporary provision for its maintenance keepers of the peace are to be appointed.

Rex Adae de Novo mercato, salutem. Cum jam, sedata turbatione nuper habita in regno nostro, pax inter nos et barones nostros, Divina cooperante gratia, ordinata sit et firmata; ac ad pacem illam per totum

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regnum nostrum inviolabiliter observandam, de consilio et assensu baronum nostrorum provisum sit, quod in singulis comitatibus nostris per Angliam, ad tuitiorem et securitatem partium illarum, custodes pacis nostrae constituentur donec per nos et barones nostros de statu regni nostri aliter fuerit ordinatum. . . .

Et quia instanti parlamento nostro, de negotiis nostris et regni nostri, cum praelatis, magnatibus et aliis fidelibus nostris tractare necessario nos oportebit, vobis mandamus quatenus quatuor de legalioribus et discretioribus militibus dicti comitatus, per assensum ejusdem comitatus ad hoc electos, ad nos pro toto comitatu illo mittatis, ita quod sint ad nos Londoniis in octavis instantis festi Sanctae Trinitatis ad ultimum, nobiscum tractaturi de negotiis praedictis; vos autem in hiis omnibus exsequendis tam fideliter et diligenter vos habeatis, ne per negligentiam vestri ad vos et vestra graviter capere debeamus. Teste Rege apud Sanctum Paulum Londoniis, quarto die Junii.

Since in the coming Parliament we shall have to treat about the business of the realm with the magnates, we order you to send us four knights of your county, elected for the purpose by the assent of the county to act on behalf of the county, to be in London by a certain date for the purpose of treating about the business mentioned.

Summons to the Parliament of 1265

Henricus, Dei gratia, Rex Angliae, dominus Hiberniae et dux Aquitanniae, venerabili in Christo patri Roberto eadem gratia episcopo Dunelmensi, salutem. Cum post gravia turbationum discrimina dudum habita in regno nostro, carissimus filius Edwardus primogenitus noster pro pace in regno nostro assecuranda et firmanda obses

A writ to the Bishop of Durham:

the cause of summons.

traditus exstisset, et jam sedata, benedictus Deus, turbatione praedicta, super deliberatione ejusdem salubriter providenda, et plena securitate tranquillitatis et pacis ad honorem Dei et utilitatem totius regni nostri firmanda, et totaliter complenda, ac super quibusdam aliis regni nostri negotiis quae sine consilio vestro et aliorum praelatorum et magnatum nostrorum nolumus expediri, cum eisdem tractatum habere nos oporteat; vobis mandamus, rogantes in fide et dilectione quibus nobis tenemini, quod omni occasione postposita et negotiis aliis praetermissis, sitis ad nos Londoniis in octavis Sancti Hilarii proximo futuris, nobiscum et cum praedictis praelatis et magnatibus nostris quos ibidem vocari fecimus super praemissis tractaturi et consilium vestrum impensuri. Et hoc sicut nos et honorem nostrum et vestrum necnon et communem regni nostri tranquillitatem diligitis nullatenus omittatis. Teste rege apud Wygorniam, xiiii die Decembris.

We bid you by the fealty and love which you owe us to come to London by a certain date to treat and give your counsel.

Each sheriff throughout England is bidden to send two knights of the shire.

The citizens of certain towns are bidden to send two citizens or burgesses.

The barons and men of the

Item mandatum est singulis vicecomitibus per Angliam quod venire faciant duos milites de legalioribus, probioribus et discretioribus militibus singulorum comituum ad regem Londoniis in octavis praedictis in forma supradicta.

Item in forma praedicta scribitur civibus Eboraci, civibus Lincolniae et ceteris burgis Angliae, quod mittant in forma praedicta duos de discretioribus, legalioribus et probioribus tam civibus quam burgensibus.

Item in forma praedicta mandatum est

baronibus et probis hominibus Quinque Portuum. . . .

Cinque Ports are also bidden to send.

Writ of Summons of Knights of the Shire
(1282)

Rex Vicecomiti Norfolciae et Suffolciae, salutem. Quia Lewelinus filius Griffini et alii Walenses complices sui, inimici et rebelles nostri, toties temporibus nostris et progenitorum nostrorum regum Angliae pacem regni nostri turbarunt et rebellionem suam et malitiam jam resumptam continuare non desistunt animo indurato, propter quod negotium quod ad ipsorum versutiam reprimendam jam incepimus de consilio procerum et magnatum regni nostri necnon et totius communitatis ejusdem, ad praesens proponimus ad nostram et totius regni pacem et tranquillitatem perpetuam Deo concedente finaliter terminare, commodius etiam et decentius esse perpendimus quod nos et incolae terrae nostrae ad ipsorum malitiam totaliter destruendam, pro communi utilitate, laboribus et expensis fatigemur hac vice, licet onus difficile videatur, quam hujusmodi turbatione per Walenses ipsos nunc habita pro voluntate sua futuris temporibus cruciari, prout tempore nostro et progenitorum nostrorum contigit manifeste, tibi praecipimus, firmiter injungentes quod venire facias coram nobis in octavis Sancti Hillarii apud Norhamptoniam aut coram fidelibus nostris quos ad hoc duxerimus deputandos, omnes illos de balliva tua

We have determined to put an end to the constant trouble in Wales.

We therefore bid you to send us—

(1) at a certain time and place all who have more than twenty pounds' worth of land, and are capable of bearing arms, and have not already joined the army against Wales;

(2) also four knights from the county, having full power to act on behalf of the county;

(3) also from each city, borough, or merchant town, two men likewise having power to act for their communities, in order that they may hear and do what we shall lay before them

Do not for any reason whatever let off any one who owns more than twenty pounds' worth of land and can bear arms, and do not send any one who has less than that amount, even if he can bear arms.

And let us have the names of those whom you send, and of the four knights.

ad arma potentes et aptos qui habent ultra viginti libratas terrae et qui nobiscum in expeditione nostra Wallensi non existunt; et quatuor milites de utroque comitatuum praedictorum pro communitatibus eorundem comitatuum habentes plenariam potestatem; et de qualibet civitate, burgo, villa mercatoria, duos homines similiter potestatem habentes pro communitatibus eorundem, ad audiendum et faciendum ea quae sibi ex parte nostra faciemus ostendi. Et nulli de balliva tua ultra viginti libratas terrae habenti et ad arma potenti et apto, amore, favore, munere seu timore vel alia quacunque ratione, parcere vel deferre praesumas. Nec etiam aliquem ultra viginti libratas terrae non habentem, licet ad arma aptus seu potens fuerit, coram nobis vel fidelibus nostris praedictis aliquatenus venire facias ex causa praedicta. Et de nominibus omnium illorum quos sic venire feceris nos vel praedictos fideles nostros ad praedictos diem et locum per praefatos quatuor milites reddas certiores. Et habeas ibi nomina illorum quatuor militum et hoc breve. Et haec omnia sicut te et tua diligis facere non omittas. T. R. apud Rothelan-
xxiv. die Novembris.

Eodem modo mandatum est vicecomitibus Nottingham et Derb., Sallop., Staff., Cant., Hunt., Essex., Hertford., Buk., Bed., Somers., Dor., Surr., Suss., War., Leyc., Oxon., Berk., Kanc., Midd., Northampt., Rotel., Linc., Cornub., Devon., Wilt., Heref., Wygorn., Glouc., et Suthampt., quod venire

faciant etc. apud Norhamptoniam. Et vicecomitibus Ebor., Cumb., Westmor., Northumbr., et Lanc., quod venire faciant etc. apud Eboracum).

Summons of Knights of the Shire (1290)

Rex Vicecomiti Northumbriae, salutem. Cum per comites, barones et quosdam alios de proceribus regni nostri, nuper fuisset super quibusdam specialiter requisiti, super quibus tam cum ipsis quam cum aliis de comitatibus regni illius colloquium habere volumus et tractatum, tibi praecipimus quod duos vel tres de discretioribus et ad laborandum potentioribus, militibus de comitatu praedicto sine dilatione eligi, et eos ad nos usque Westmonasterium venire facias; ita quod sint ibidem a die Sancti Johannis Baptistae proximo futuro in tres septimanas ad ultimum, cum plena potestate pro se et tota communitate comitatus praedicti, ad consulendum et consentiendum pro se et communitate illa hiis quae comites, barones et proceres praedicti tunc duxerint concordanda. T. Rege, apud Westmonasterium xiiii die Junii.

The barons having asked us to confer on certain matters, we will confer also with others;

we bid you therefore to procure the election of two or three knights to come to us at a certain place and time, armed with full power on behalf of themselves and their community to consult and to consent to whatever the magnates think should be agreed upon.

Summons of Representatives of Shires and Towns to Parliament (1295)

Rex Vicecomiti Norhamtesirae. Quia cum comitibus, baronibus et ceteris proceribus regni nostri, super remediis contra pericula quae eidem regno hiis diebus imminent pro-

The magnates have been bidden to come at a certain time and place to confer concerning measures to be taken

to meet dangers
which threaten
the realm.

We bid you immediately to procure the election of two knights from your county and two citizens or burgesses from each city or borough, and to send them to me at the time and place mentioned, armed with full power to act on behalf of themselves and their community, in order that they may do what shall then be ordained by common counsel.

videndum, colloquium habere volumus et tractatum, per quod eis mandavimus quod sint ad nos die Dominica proxima post festum Sancti Martini in hyeme proxime futurum apud Westmonasterium, ad tractandum, ordinandum et faciendum qualiter sit hujusmodi periculis obviandum; tibi praecepimus firmiter injungentes quod de comitatu praedicto duos milites et de qualibet civitate ejusdem comitatus duos cives, et de quolibet burgo duos burgenses, de discretioribus et ad laborandum potentioribus, sine dilatione eligi, et eos ad nos ad praedictos diem et locum venire facias; ita quod dicti milites plenam et sufficientem potestatem pro se et communitate comitatus praedicti, et dicti cives et burgenses pro se et communitate civitatum et burgorum praedictorum divisim ab ipsis tunc ibidem habeant, ad faciendum quod tunc de communi consilio ordinabitur in praemissis; ita quod pro defectu hujusmodi potestatis negotium praedictum infectum non remaneat quoquo modo. Et habeas ibi nomina militum, civium et burgensium et hoc breve. T. Rege apud Cantuariam iii. die Octobris.

*Writ of Summons to Parliament to an
Archbishop (1317)*

10 Edward III.

Rex venerabili in Christo patri J. eadem gratia archiepiscopo Cantuariensi totius Angliae primati, salutem. Quia super diversis et arduis negotiis nos et statum regni

The *reason of
the summons.

nostri specialiter contingentibus parliamentum nostrum apud Eboracum die Lunae in festo Sancti Hilarii proximo futuro tenere et vobiscum ac cum ceteris prelatiis, magnatibus et proceribus dicti regni colloquium habere proponimus et tractatum : vobis mandamus in fide et dilectione quibus nobis tenemini firmiter injungentes quod omni excusatione cessante dictis die et loco personaliter intersitis nobiscum et cum ceteris praelatis, magnatibus et proceribus praedictis super dictis negotiis tractaturi vestrumque consilium impensuri. Et hoc sicut nos et honorem nostrum ac tranquillitatem et quietem regni nostri diligitis nullatenus omittatis. Praemunientes priorem et capitulum ecclesiae vestrae Christi Cantuariensis archidiaconos totumque clerum vestrae diocesis quod iidem prior et archidiaconi in propriis personis suis ac dictum capitulum per unum idemque clerus per duos procuratores idoneos plenam et sufficientem potestatem ab ipsis capitulo et clero habentes dictis die et loco intersint ad faciendum et consentiendum hiis quae tunc ibidem de communi consilio divina favente clementia contigerit ordinari. Teste Rege apud Bothevillam xxix die Novembris.

The summons on his "fidelity and love."

The action demanded of the magnates.

The *Praemunientes* clause providing for the summons of the representative clergy.

The action demanded of the representative members.

A similarly worded summons, *mutatis mutandis*, was addressed to the Archbishop of York and all the bishops of both provinces.

A similarly worded summons, *mutatis mutandis*, and with the omission of the "Praemunientes" clause, was addressed to all abbots and priors summoned to Parliament.

A similarly worded summons, *mutatis mutandis*, with the omission of the "Praelunientes" clause, and with the substitution of *fide et ligeantia* for *fide et dilectione*, was addressed to all earls and lay barons summoned to Parliament.

Writ Addressed to the Judges

The Judges not numbered among the magnates.

Rex dilecto et fideli suo . . . salutem. Quia — tenere, et cum praelatis, magnatibus et proceribus dicti regni nostri Angliae ac aliis de consilio nostro colloquium habere volumus et tractatum; vobis mandamus firmiter injungentes quod omnibus aliis praetermissis dictis die et loco personaliter intersitis nobiscum et cum dictis praelatis, magnatibus et proceribus dicti regni super negotiis praedictis tractaturi vestrumque consilium impensuri. Et hoc nullatenus omittatis.

The action expected of the Judges.

Summons of Representatives of Shires and Boroughs to Parliament (1404)

5 Henry IV.

By the advice of our Council we have determined to hold a Parliament at a certain time and place to consider matters touching the condition of the realm and the Church.

Rex Vicecomiti Kantiae, salutem. Quia de avisamento consilii nostri pro quibusdam arduis et urgentibus negotiis nos statum et defensionem regni nostri ac ecclesiae Anglicanae contingentibus quoddam parliamentum nostrum apud Coventre tertio die Decembris proximo futuro teneri ordinavimus et ibidem vobiscum ac cum ceteris praelatis, magnatibus et proceribus dicti regni nostri colloquium habere et tractatum; tibi praecipimus firmiter injungentes . . . Ita

We bid you therefore to procure the election of knights and burgesses under the usual conditions.

quod iidem milites plenam et sufficientem potestatem pro se et communitate comitatus praedicti et dicti cives et burgenses pro se et communitatibus civitatum et burgorum praedictorum divisim ab ipsis habeant ad faciendum et consentiendum hiis quae tunc ibidem de communi consilio dicti regni nostri favente Domino ordinari contigerit super negotiis antedictis. Ita quod pro defectu potestatis huiusmodi seu propter improvidam electionem militum civium aut burgensium praedictorum dicta negotia nostra infecta non remaneant quovis modo. Nolumus autem quod tu seu aliquis alius vicecomes regni nostri praedicti aliququaliter sit electus. Et habeas ibi nomina praedictorum militum, civium et burgensium et hoc breve. Teste Rege apud Westmonasterium xx. die Octobris.

Neither you nor any other sherriff must be elected under any guise.

Addition to the Writ of Summons after the Act of 1406

Rex vicecomiti — quovis modo. Et electionem tuam in pleno comitatu tuo distincte et aperte factam sub sigillo tuo et sigillis eorum qui electioni illi interfuerint nobis in cancellaria nostra ad dictos diem et locum certifies indilate. Remittens nobis alteram partem indenturarum praedictarum praesentibus consutam una cum hoc brevi. Teste etc.

8 Henry IV.

Certify without delay to the Chancery that the election was made openly in full County Court on an indenture sealed with your seal and the seals of those who took part in the election.

VIII

PARLIAMENTARY CONTROL OF TAXATION AND LEGISLATION

Act 14 Edward III. stat. 2 (1340)

EDWARD par la grace de Dieu Roi Dengleterre et de France, et Seigneur Dirlaunde, a toutz ceux as queux cestes lettres vendront, salutz. Sachiez qe come Prelatz, Contes, Barons et Communes de nostre roialme Dengleterre, en nostre present Parlement somons a Westmonstier, le Meskerdy proschein apres le dymeigne en demy quaresme, lan de nostre regne Dengleterre qatorzisme, et de France primer, nous aient grantez de lour bone gree et de bone volente, en eide de exploit de noz grosses busoignes queles nous avons a faire, auxi bien de cea la meer come par dela, la noefisme garbe le noefisme tuyson et le noefisme aiguel a prendre par deux annz proscheins avenir apres

Translation

Edward, by the grace of God, King of England and of France, and lord of Ireland, to all those to whom these letters shall come, greeting. Know ye that whereas the prelates, earls, barons and commons of our realm of England, in our present Parliament holden at Westminster the Wednesday next after the Sunday of Middle Lent, the fourteenth year of our reign of England and the first of France, have granted to us of their good gree and good will in aid of the speed of our great business which we have to do, as well on this side the sea as beyond, the ninth sheaf, the ninth fleece and the ninth lamb, to be taken by two years next coming after the making of the same, and the citizens of cities and the

la feisance de cestes, et les citeyens des citeez, et burgeys de burghs, la verroi noefisme de toutz lour biens, et les marchantz foreyns et autres qe ne vivent poynt de gaynerie ne destore des berbiz le quinzisme de lour biens loialment a la value : Nous voillantz purvoier al indempnite des ditz prelatz, countes, barons et autres de la dite communalte, et auxint des citeyns, burgeys et marchantz susditz, voilloms et grantoms, pur nous et pur noz heirs, as mesmes les prelatz, countes, barouns et communes, citeyns, burgeys et marchantz, qe ce grant qe est si chargeant ne soit autrefoitz trette en ensauple, ne ne chete a eux en prejudice en temps avenir ; ne qe eux soient desore chargiez ne grevez de commune eide faire, ou charge sustenir, si ce ne soit par commune assent des prelatz, countes, barouns et autres grantz et communes de nostre dit roialme Dengleterre, et ce en parlement ; et qe touz les profitz sourdantz du dit eide, et des gardes, mariages, custumes eschetes et autres profitz sourdantz du roialme Dengleterre soient mys et despenduz sur le meintenance de la sauvegarde de nostre dit roialme Dengleterre, et de nos guerres Descoce, France et Gascoigne, et null part aillours, durantz les dites guerres.

Act 36 Edward III. c 11 (1362)

Le Roi, eant regarde al grant subside qe le Comunes lui ont grantez ore en cest

burgesses of boroughs, the very ninth part of all their goods; and the foreign merchants, and others which live not of tillage, nor of store of sheep, the fifteenth of their goods lawfully to the value: we, willing to provide for the indemnity of the said prelates, earls, barons, and others of the commonalty, and also of the citizens, burgesses and merchants aforesaid, will and grant for us and our heirs, to the same prelates, earls, barons, and commons, citizens, burgesses and merchants, that the same grant which is so chargeable, shall not another time be had forth in example, nor fall to their prejudice in time to come, nor that they be from henceforth charged nor grieved to make common aid, or to sustain charge, if it be not by the common assent of the prelates, earls, barons, and other great men, and commons of our said realm of England, and that in the Parliament; and that all the profits rising from the said aid, and of the wards and marriages, customs and escheats, and other profits rising of the said realm of England, shall be put and spent upon the maintenance of the safeguard of our said realm of England, and of our wars in Scotland, France and Gascony, and in no places elsewhere during the said wars.

Translation

The King having regard to the grant that the Commons have granted now in

parlement, des leines, quirs et peaulx lanuz, a prendre pur trois anns, voet et grante, qapres le dit terme passe rien ne soet pris ne demande des ditz comunes, fors seulement launciene custume de demy marc ; ne qe cest grante ore faite, ou qad este faite devant ces heures, ne soit tret en ensaumple ne charge du dite comune en temps avenir : et qe les Marchantz deinzeins puissent passer ove lour leines, si avant come les foreins, sanz estre restreintz ; et qe nul subside nautre charge soit mis ne grante sur les leines, par les marchantz ne par nul autre, desore enavant sanz assent du parlement.

Act 45 Edward III. c 4 (1371)

Item est accorde et establi qe nul imposition ou charge soit mys sur les leines, pealx lanuz ou quirs, autre qe la custume et subside grantez au Roi nulle part saunz assent du parlement ; et si nul soit mys soit repelle et tenuz pur nul.

Attempt to make Supply Depend upon Redress of Grievances (1401)

Item, mesme la Samady, les ditz Communes monstrerent a nostre dit seigneur le Roy, qe come es pluseurs Parlementz devant ces heures leur communes petitions n'ont estee responduz devant q'ils avoient fait leur grante d'ascun aide ou subside a

this Parliament, of wools, leather, and woolfells, to be taken for three years, wills and grants that after the said term passed, nothing be taken nor demanded of the said Commons, but only the ancient custom of half a mark; nor that the grant now made, or which hath been made in times passed, shall not be had in example nor charge of the said Commons in time to come: and that the merchant denizens may pass with their wools as well as the foreigners, without being restrained; and that no subsidy nor other charge be set nor granted upon the wools by the merchants nor by none other from henceforth without the assent of Parliament.

Translation

It is accorded and established, that no imposition or charge shall be put upon wool, woolfells, or leather, other than the custom and subsidy granted to the King, in no sort, without the assent of the Parliament; and if any be, it shall be repealed and holden for none.

Translation

The same Saturday, the said Commons showed to our said lord the King that as in several parliaments before these times their common petitions were not answered before they had made their grant of an aid or subsidy to our lord the King;

nostre seigneur le Roy ; et sur ceo prièrent a mesme nostre seigneur le Roi, qe pur grande ease et confort des ditz Communes y pleust a nostre seigneur le Roy de grantir as mesmes les Communes, q'ils puissent avoir conisance des responses de leur dites petitions devant ascune tiele grante ensy a faire.

A quoy leur feust responduz, Qe de ceste matire le Roi vorroit communier ovesqe les seigneurs du Parlement, et sur ceo faire ceo qe meulx luy verroit a faire par advys des ditz seigneurs.

Et puis apres, c'est assavoir le darrein jour de Parlement, leur feust responduz, Qe celle manere de fait n'ad este vuee ne use en nul temps de ses progenitours ou predecessours, q'ils aueroient ascun respons de leur petitions, ou conisance d'icelle, devant q'ils avoient monstrez et faitz toutz leur autres bosoignes du Parlement, soit il d'ascune grante a faire, ou autrement. Et partant le Roy ne vorroit ascunement chaunger les bones custumes et usages faitz et usez d'auncien temps. (Rolls of Parliament, III. p. 458, § 23.)

Initiation of Money Grants by the Commons
(1407)

Item, Vendredy le second jour Decembre, qe feust le darrein jour de Parlement, les Communes viendrent devaunt le Roy et les seigneurs en Parlement, et illeosques par mandement du Roy une cedula de Indempnitee fur certain altercation moevé par entre

whereupon they prayed our said lord the King that for the great ease and comfort of the said Commons it would please our lord the King to grant to the said Commons, that they should be able to know the answers to their said petitions before any such grant is thus made. To which answer was made to them, that on this matter the King wished to communicate with the lords of Parliament and to do with regard to it what it would seem best to him to do by advice of the said lords. And then afterwards, that is to say, on the last day of Parliament, answer was made to them, that this kind of act had not been seen nor used at any time by his ancestors or predecessors, that they should have any answer to their petitions or knowledge of the same before they had shewn and done all the other business of the Parliament, whether it were of a grant to be made or otherwise. And therefore the King did not wish in any way to change the good customs and usages made and used of old time.

Translation.

On Friday, the second day of December, which was the last day of Parliament, the Commons came before the King and the lords in Parliament, and there by command of the King a schedule of indemnity for a certain dispute between the lords and the

les seigneurs et les Communes feust lue ; et sur ce commande feust par mesme nostre seigneur le Roy, qe mesme la cedula soit entrez de record en Rolle de Parlement, de quele cedula le tenure s'enseute.

Fait a remembrer, qe le Lundy le xxi jour de Novembre, le Roy nostre seigneur souveraigne estean en la Chaumbre du Conseil deinz l'Abbaie de Gloucestre, y esteanz en sa presence les seigneurs espirituelx et temporelx a cest present Parlement assemblez, commenez estoit entre eux de l'estate du Roialme, et la defence d'icell pur resister la malice des esnemyes, qi de chescun coust soi appaillent de grever mesme le Roialme et les foialx subgitz d'icell, et qe homme ne poet resistre a ycell malice, sinon qe pur la saufe-garde et defence de son dit Roialme nostre soverain seigneur le Roy suis dit ait en cest present Parlement ascune notable aide et subsidie a luy grauntez. Et sur ce des suis ditz seigneurs demandez feust par voie de question, Quele aide purroit suffisre et ferroit busoignable en ce cas ? A laquell demande et question feust par mesmes les seigneurs severalement responduz, Qe consideree la necessite du Roy d'une parte, et la poverte de soun poeple d'autre parte, meindre aide suffisre ne purroit, qe d'avoir une disme et demy des Citees et Burghs, et une quinzisme et demy des autres laies gentz. Et outre, de graunter prorogation du subsidie des lains, quirs et pealx lanutz, et de trois souldz de tonell, et dusze deniers de la livre, de la fest de Seint Michell pro-

Commons was read ; and thereupon it was commanded by our said lord the King, that the said schedule be entered for record in the Roll of Parliament : of which schedule the tenor was as follows :—

Be it remembered that on Monday the twenty-first day of November, the King our sovereign lord being in the Council room within the Abbey of Gloucester, there being in his presence the lords, spiritual and temporal, assembled at this present Parliament, there was a discussion among them on the state of the realm, and the defence of the same in order to resist the malice of the enemies, who on every coast appeared to be harassing the said realm and the faithful subjects of the same, and no man would be able to resist that malice, unless for the safeguard and defence of his said realm our sovereign lord the King aforesaid had in this present Parliament some notable aid and subsidy granted to him. And thereupon it was demanded of the aforesaid lords by way of question, What aid would be sufficient and needful in this case ? To which demand and question answer was made by the said lords severally, that considering the necessity of the King on one side and the poverty of his people on the other side, a less aid would not suffice than to have a tenth and a half from the cities and boroughs, and one fifteenth and a half from other laymen. And besides, to grant a prolongation of the subsidy on wool, leather and woolfels, and three shillings

schein venaunt tan qe a la fest de Seint Michell en deux ans lors proschein ensuantz. Sur quoy, par commaundement du Roy nostre dit Seigneur, feust envoie au Commune de cest present Parlement, de faire venir devant mesme nostre seigneur le Roy, et les ditz Seigneurs ascune certain nombre des personnes de leur compaignie pur oier et reporter a leur compaignons ce q'ils aueroient en commandement de nostre seigneur le Roy suis dit. Et sur ce les ditz Communes envoierent a la presence du Roy nostre dit seigneur, et des ditz seigneurs, dusze de leur compaignons : as queux par commandement de mesme celuy nostre seigneur le Roy, feust declare la question suis dite, et la responce des suis ditz seigneurs a ycelle severalement donee. Quele responce la volunte d'icelui nostre seigneur le Roy estoit q'ils ferroient reporter a les autres de leur compaignons ; aufin q'ils soy vorroient prendre le pluis pres pur leur conformer a l'entent des seigneurs avaunt ditz. Quele report ensi fait as ditz Communes, ils ent furent grandement destourbez, en disant et affermant ce estre en grand prejudice et derogation de leur libertees ; et depuis qe nostre dit seigneur le Roy ce avoit entenduz, nient veillant qe riens soit fait a present, n'en temps advener, qe tournir purroit ascunement encontre la libertee de l'Estate, pur quelle ils sont venuz au Parlement, n'encountre les libertees de les seigneurs suis ditz, voet, et graunte, et de-

on the ton and twelve pence in the pound, from the feast of St Michael next coming till the feast of St. Michael in two years then next ensuing. Whereupon by command of the King our said lord, word was sent to the Commons of this present Parliament that they should cause to come before our said lord the King and the said lords a certain number of the individuals of their company, to hear and to report to their companions that which they should have in command of our lord the King aforesaid. And thereupon the said Commons sent to the presence of the King our said lord and the said lords, twelve of their companions, to whom by command of our said lord the King was declared the question aforesaid and the response of the aforesaid lords severally given to it. Which response it was the will of our said lord the King that they should report to the rest of their companions; finally that they should set themselves to conform as nearly as possible to the purpose of the lords above said. Which report having been thus made to the said Commons they were greatly disturbed at it, saying and affirming that this was in great prejudice and derogation of their liberties; and when our said lord the King had heard of this, not wishing that anything should be done at present or in time to come, which could in any way turn against the liberty of the estate for which they were come to Parliament, nor

clare, de l'advis et assent de mesmes les seigneurs, en la manere q'enseute. C'est assaver, qe bien lise as seigneurs de comuner entre eux ensemble en cest present Parlement, et en chescun autre en temps advener, en absence du Roy, de l'estate du roialme, et de le remedie a ce busoignable. Et qe par semblable manere bien lise as Communes, de lour part, de comuner ensemble de l'estate et remedie suis ditz. Purveux toutesfoitz, qe les seigneurs de lour part, ne les Communes de la leur, ne facent ascun report a nostre dit seigneur le Roy d'ascun grant par les Communes grantez, et par les seigneurs assentuz, ne de les communications du dit graunt, avaunt ce qe mesmes les seigneurs et Communes soient d'un assent et d'un accord en celle partie, et adonques en manere et forme come il est accustumez, c'est assaver par bouche de Purparlour de la dite Commune pur le temps esteant, afin qe mesmes les seigneurs et Communes avoir puissent lour gree de nostre dit seigneur le Roy. Vuillant outre ce nostre dit seigneur le Roy, de l'assent des seigneurs avaunt ditz, qe la communication en cest present Parlement eue come desuis, ne soit traihez en ensample en temps advenir, ne se tourne a prejudice ou derogation de la libertee de l'Estate, pur quell mesmes les Communes sont presentement venuz, ne en cest present Parlement, ne en null autre en temps advenir. Mais voet, qe luy mesmes, et' toutz les

against the liberties of the lords aforesaid, willed and granted and declared, with the advice and assent of the said lords in the following manner: that is to say, That it is lawful for the lords to discuss among themselves together in this present Parliament and in every other in time to come, in the absence of the King, concerning the state of the realm and the remedy needful to it. And that in like manner it is lawful for the Commons on their part to discuss together concerning the state and remedy aforesaid. Provided always that the lords on their part and the Commons on theirs, make no report to our said lord the King, of any grant granted by the Commons and agreed to by the lords, nor of the communications about the said grant, before the said lords and Commons shall be of one assent and one accord in the matter, and then in manner and form that is customary, that is to say by the mouth of the Speaker of the said Commons for the time being, to the end that the said lords and Commons should have the agreement of our said lord the King. Besides this our said lord the King wills with the assent of the lords aforesaid that the communications held in this present Parliament as aforesaid, shall not be treated as an example in time to come nor be turned to the prejudice or derogation of the liberty of the estate for which the said Commons were now come together, neither in this present Parliament nor in any other in time to come. But

autres Estates soient auxi franks come il feurent par devaunt. (Rolls of Parliament, II. p. 611, § 21.)

Revocation of the Ordinances (1322)

Come nostre Seigneur le Roi Edward . . . eust grantez as prelatz, countes et barons de son roialme queux peussent eslire certaines persones . . . pur ordener et establir lestat del Hostel nostre dit seigneur le Roi, et de son roialme . . . et Lercevesqe de Caunterbris, Primat de tot Engleterre, Evesques, Countes et Barons, a ceo eslutz, eussent fait ascunes Ordenaunces . . . Les Queles ordenances le dit nostre seigneur le Roi, a son parlement a Everwyk . . . fist rehercer et examiner : Et pur ceo qe par cel examenement trove feust en dit parlement, qe par les choses issint ordenees le poair real nostre dit seigneur le Roi feust restreynt, en plusors choses, coudre devoir, en bleuissement de sa seigneurie reale, et encoudre lestat de la Coronne ; et auxi pur ce qe, en temps passe, par tieles ordenances et purveaunces, faites par les suggets sur le poair real des auncestres nostre seigneur le Roi, troubles et guerres sont avenuz en roialme, pur quoi la terre ad este en peril ; acorde est et establi au dit parlement par nostre seigneur le Roi, et par les ditz prelatz, countes, et barons et tote la commune du roialme, a cel parlement assemblez, qe totes les choses par les ditz ordenours ordenees, et con-

wills that the said and all other estates be as free as they had been before.

Translation

Whereas our lord King Edward did grant to the prelates, earls and barons of his realm that they might choose certain persons for ordaining and establishing the estate of the household of our said lord the King and of his realm : and the Archbishop of Canterbury, Primate of All England, the bishops, earls and barons, thereunto chosen, did make certain Ordinances . . .

The which Ordinances our said lord the King at his Parliament at York caused to be rehearsed and examined : And forasmuch as upon that examination it was found in the said Parliament, that by the matters thus ordained the royal power of our said lord the King was restrained in several matters contrary to what ought to be, to the blemishing of his royal sovereignty, and against the estate of the crown ; and also forasmuch as, in time past, by such ordinances and provisions, made by their subjects against the royal power of the ancestors of our lord the King, troubles and wars have happened in the realm, whereby the land hath been in peril ; it is accorded and established, at the said Parliament, by our lord the King and by the said prelates, earls and barons, and the whole Commonalty of the realm, at

tenues en les dites ordenaunces, desoremes pur le temps avenir cessent, et perdent noun, force, vertu, et effect a touz jours ; les estatutz et establissementz faitz duement par nostre seigneur le roi, et ces auncestres, avaunt les dites ordenaunces, demorauntz en lour force : et qe desore james en nul temps, nule manere des ordenaunces, ne purveaunces faites par les suggetz nostre seigneur le roi, ou de ses heirs, ou coudre lestat nostre dit seigneur le roi, ou de ses heirs, ou coudre lestat de la Coronne, soient nulles, et de nule manere de value ne de force ; mes les choses qe serount a establir, pur lestat de nostre seigneur le roi, et de ses heirs, et pur lestat du roialme et du poeple, soient tresetes, accordees, establies, en parlementz, par nostre seigneur le roi, et par lassent des prelatz, countes et barouns, et la communalte du roialme ; auxint come ad este acustume cea enarere.

Attempt of the Commons to secure the Control of Legislation (1401)

Item, mesme le Samady, les ditz Communes prirent a nostre seigneur le Roy, qe les bosoignes faitz et a faires en cest Parlement soient enactez et engrossez devant le departir les Justices, tant come ils les aient en leur memoire. A quoi

this Parliament assembled, that all the matters by the said ordainers ordained and contained in the said ordinances, shall from henceforth for the time to come cease and lose name, force, virtue and effect for ever; the statutes and establishments duly made by our lord the King and his ancestors, before the said ordinances, remaining in their force: and that henceforth always at any time, every kind of ordinance or provision made by the subjects of our lord the King or of his heirs or against the estate of our said lord the King or of his heirs, or against the estate of the crown, shall be null and of no kind of value or force; but the matters which are to be established for the estate of our lord the King and of his heirs, and for the estate of the realm and of the people, shall be treated, accorded, established in Parliaments, by our lord the King and by the assent of the prelates, earls and barons, and the Commonalty of the realm; according as it hath been heretofore accustomed.

Translation

The same Saturday the said Commons prayed our lord the King that the business done and to be done in this Parliament, might be enacted and engrossed before the departure of the Justices whilst they had it in their recollection. To which the answer

leur feust responduz, Qe le Clerk du Parlement ferroit son devoir pur enacter et engrosser la substance du Parlement par advis des Justices, et puis le monstrier au Roy et as seigneurs en Parlement, pur savoir leur advis. (Rolls of Parliament, II. p. 457, § 21.)

Control of Legislation (1414)

Item fait a remembrer, Qe les Communes baillerent a Roi nostre seigneur tres souverain en cest present Parlement une petition, dont le tenure enfuyt de mote a mote.

Oure souverain Lord, youre humble and trewe lieges that ben come for the Commune of youre lond bysechyn on to youre rizt riztwesnesse, That so as hit hath ever be thair liberte and fredom, that thar sholde no statut no lawe be made offasse than they yaf therto their assent : Consideringe that the Commune of youre lond, the whiche that is, and ever hath be, a membre of youre Parlement, ben as well assentirs as peticioners, that fro this tyme foreward, by compleynte of the Commune of eny myschief axkyng remedie by mouthe of their Speker for the Commune, other ellys by petition written, that ther never be no lawe made theruppon, and engrosed as statut and lawe, nother by additions, nother by diminucions, by no maner of terme ne termes, the whiche that sholde chaunge the sentence, and the

was made, that the Clerk of the Parliament should do his duty in enacting and engrossing the work of the Parliament with the advice of the Justices, and then shew it to the King and to the lords in Parliament in order to know their opinion.

Control of Legislation (continued)

entente axked by the Speker mouthe, or the petitions biforessaid yeven up yn writyng by the manere forsaïd, withoute assent of the forsaïd Commune. Consideringe oure souverain Lord, that it is not in no wyse the entente of youre Communes, zit hit be so that they axke you by spekyng, or by writyng, too thynges or three, or as manye as theym lust: But that ever it stande in the fredom of your hie regalie, to graunte whiche of thoo that you luste, and to werune the remanent.

The Kyng of his grace especial graunteth that fro hens forth no thyng be enacted to the petitions of his Comune, that be contrarie of hir askyng, wharby they shuld be bounde withoute their assent. Savyng alwey to our liege Lord his real prerogatif, to graunte and denye what him luste of their petitions and askynges aforesaide. (Rolls of Parliament, IV. p. 22, § 22.)

IX

THE REGULATION OF PARLIAMENTARY ELECTIONS

Act 7 Henry IV. c. 15 (1406)

NOSTRE seigneur le Roy al grevouse
compleint de sa Comune del non dewe
eleccion des Chivalers des Countees pur le
parlement, queux aucune foitz sont faitz
de affection des Viscountz, et autrement
encountre la forme des briefs as ditz
Viscountz directe, a grand esclaundre des
Countees et retardacion des busoignes
del Communalte du dit Countee; nostre
soverein seigneur le Roy vuillant a ceo
purveier de remede, de lassent des seig-
neurs espirituelx et temporelx et de tout
la Comune en cest present parlement, ad
ordeignez et establiz qe desore enavrant
les eleccions des tielx Chivalers soient faitz
en la forme qenseute: Cestassaver qe la
proschein Countee a tenir apres la livree
du brief du parlement, proclamacion soit

Translation

Our lord the King at the grievous complaint of his Commons in this present Parliament, of the undue election of the knights of counties for the Parliament, which be sometime made of affection of sheriffs and otherwise against the form of the writs directed to the sheriff, to the great slander of the counties and hindrance of the business of the commonalty in the said county ; our sovereign lord the King, willing therein to provide remedy, by the assent of the Lords spiritual and temporal and the Commons in this present Parliament assembled, hath ordained and established that from henceforth the elections of such knights shall be made in the form as followeth—

At the next County to be holden after

fait en plein Countee de la jour et lieu de parlement, et qe toutz ceux qi illeokes sont presentz, sibien suturez duement somoines par cele cause, come autres, attendent la eleccion de leurs Chivalers pur le parlement ; et adonques en plein Counte aillent al eleccion liberalment et endifferement non obstant aucune prier ou comaundement au contrarie ; et apres qils soient esluz, soient les persones esluz presentz ou absentz, soient leur nouns escriptz en endenture dessoutz les sealx de toutz ceux qe eux eslisent et tacchez au dit brief du parlement ; quele endendure issint ensealez et tacchez soit tenuz pur retourne du dit brief qant as Chivalers des Countees ; et qe en briefs du parlement affairs en temps advenir soit mys cest clause : Et electionem tuam in pleno Comitatu tuo factam distincte et aperte sub sigillo tuo et sigillis eorum qui electioni illi interfuerint nobis in cancellaria nostra ad diem et locum in brevi contentos certifies indilate.

Act 1 Henry V. c. 1 (1413)

. . . qe les Chivalers des Countees qe desores seront esluz en chescun Countee ne soient esluz sils ne soient receauntz deinz les Countees ou ils seront issint esluz le jour de la date du brief de ſomons de

the delivery of the writ of the Parliament, proclamation shall be made in the full County of the day and place of the Parliament, and that they that be there present, as well suitors duly summoned for the same cause as other, shall attend to the election of the knights for the Parliament, and then in the full County they shall proceed to the election freely and indifferently, notwithstanding any request or commandment to the contrary.

And after that they [the knights of the shire] be chosen, the names of the persons so chosen (be they present or absent) shall be written in an indenture under the seals of all them that did choose them, and tacked to the same writ of the Parliament, which indenture, so sealed and tacked, shall be holden for the sheriffs' return of the said writ, touching the knights of the shires. And in the writs of the Parliament to be made hereafter, this clause shall be put :
 Et electionem tuam in pleno comitatu tuo factam distincte et aperte sub sigillo tuo et sigillis eorum qui electioni illi interfuerint nobis in cancellaria nostra ad diem et locum in brevi contentos certifies indilate.

Translation

That the knights of the shire which from henceforth shall be chosen in every shire, be not chosen unless they be resident within the shire where they shall be chosen, the day of the date of the writ

parlement; et qe les Chivalers et Esquiers et autres qi serrount eslisours des tielx Chivalers des Countees soient auxi receauntz deins mesmes les Countees en manere et fourme come dessus est dit. . . .

Act 8 Henry VI. c. 7 (1430)

Come les eleccions des Chivalers des Countees esluz a venir as parlements du Roi en plusours Countees Dengleterre, ore tarde ount este faitz per trope graunde et excessive nombre dez gents demurrantz deinz mesmes les Countes, dount la greindre partie estoit per gentz sinon de petit avoir ou de nulle valu, dount chescun pretende davoir voice equivalent quant a tielx eleccions faire ove les pluis valantz chivalers ou esquiers demurrantz deins mesmes les Countes; dount homicides riotes bateries et devisions entre les gentiles et autres gentz de mesmes les Countees vreisemblablement sourdront et serront, si covenable remede ne soit purveu en celle partie :

Nostre seigneur le Roy considerant les premisses ad purveu et ordene per auctorite de cest parlement, que les Chivalers des Countes deins le Roialme Dengleterre, a esliers a venir a les parlamentz en apres atenirs, soient esluz eu chescun Counte par gentz demurantz et recreantz en icelles, dount chescun ait frank tenement a le valu de xls. par an al meins 'outre les

of the summons of the Parliament : and that the knights and esquires and others which shall be choosers of those knights of the shire, be also resident within the same shires, in manner and form as is aforesaid.

Translation

Whereas the elections of Knights of shires chosen to come to the Parliaments of the King in several counties of England have now of late been made by very great and excessive number of people dwelling within the same counties of the which most part was of people of small substance and of no value, whereof every of them pretended a voice equivalent, as to such elections to be made, with the most worthy knights and esquires dwelling within the same counties ; whereby manslaughter, riots, batteries and divisions among the gentlemen and other people of the same counties, shall very likely rise and be unless convenient remedy be provided in this behalf : Our Lord the King considering the premisses, hath provided and ordained by authority of this present Parliament, that the Knights of the shire to be chosen within the same realm of England to come to the Parliaments hereafter to be holden, shall be chosen in every county by people dwelling and resident in the same, whereof every one of them shall have free tenement to the value of forty shillings by the year at the least above all charges ; and

reprises; et que ceux qi seront ensy esluz soient demurantz et recreantz deins mesmes les Countes; et ceux qi ount le greindre nombre de yceulx qi poient expendre par an xls. et outre come desuis est dit, soient retournez par les Viscontz de chescun Countee Chivalers pur le parlement, par indentures ensealles parentre les ditz Viscountz et les ditz eslisours ent affaires; et eit chescun Vicont Dengleterre poair par auctorite suisdite dexaminer sur les seintz Evangelies chescun tiel elisour, comebien il poet expendre per an: Et si ascun Viscount retourne Chivalers pur venir au parlement au contrarie de ycest ordinaunce, qe les Justices des Assises en lour sessions des assises aient poar par auctorite suisdite de ceo enquerer: Et si par inquest ceo soit trove devaunt mesmes les Justices, et le Viscount de ceo duement atteint, qadonqs le dit Viscount encourge la peine ce C lib. apaiers a nostre seigneur le Roy: Et auxi qil ait imprisonment par un an saunz estre lessez au baille ou mainprise: Et qe les Chivalers pur le parlement au contrarie le dite ordinaunce retournez perdent lour gages. Purveu toutfoitz qe celluy qi ne poet expendre xls. par an come desuis est dit ne soit en ascun manere elisour des Chivalers pur le parlement; et qe en chescun bref qe issera en apres as viscount pur eslier Chivalers pur le parlement soit mencion fait des ditz ordinaunces.

that they which shall be so chosen shall be dwelling and resident within the same counties ; and such as have the greatest number of them that may expend forty shillings by year and above, as afore is said, shall be returned by the sheriffs of every county, Knights for the Parliament, by indentures sealed betwixt the said sheriffs and the said choosers so to be made : and every sheriff of England shall have power by the same authority to examine upon the Evangelists every such chooser, how much he may expend by the year : And if any sheriff return knights to come to the Parliament contrary to the said Ordinance, the Justices of Assize in their Sessions of Assize shall have power by the authority aforesaid, thereof to enquire ; and if by inquest the same be found before the Justices, and the sheriff thereof be duly attainted, that then the said sheriff shall incur the pain of an hundred pounds to be paid to our Lord the King, and also that he have imprisonment by a year, without being let to bail or mainprise ; and that the knights for the Parliament returned contrary to the said Ordinance shall lose their wages. Provided always that he which can not expend forty shillings by year, as afore is said, shall in no wise be chooser of the knights for the Parliament ; and that in every writ that shall hereafter go forth to the sheriffs to choose knights for the Parliament, mention be made of the said Ordinances.

Act 10 Henry VI. c. 2 (1432)

. . . qe les Chivalers de toutz les Countees deinz le dit roialme, a esliers pur venir a les parlementz en apres a tenirs, soient esluz en chescun Countee par gentz demurantz et receauntz en icelles dount chescun ait frank tenant a la value de xls. par an au mains outre les reprises, deins mesme le Countee ou ascun tiel eslisour soit voet meller das-cun tiel eleccion.

Act 23 Henry VI. c. 14 (1445)

1 Henry V. cap 1.

Comme par auctorite dun parlement tenuz a Westminster lan du reign de le tres honorable pier du Roi, quorest primer, entre autres chosez ordeigne fuist "que lez Citezeins et Burgeisez dez Citees et Burghs venantz au parlement serroient eslieux homez Citezeins et Burgeisez resceauntz demeurrauntz et enfraunchisez en memez les Citeez et Burghs et null autres" comme en meme lestatut pluis pleynement est conteignuz ; les queux Citizeins et Burgeisez et null autres ont tout temps en Citeez et Burghs estez eslieux, et as Viscomtz des Counteez retournez, et sur lour retournez resceux et acceptez par lez parlementz devaunt sez hoeurez tenuz :

Et auxint comme par auctorite dun parlement tenuz a Westminster lan du reigne le

Translation

That the knights of all counties within the realm, to be chosen to come to Parliaments hereafter to be holden, shall be chosen in every county by people dwelling or resiant in the same, whereof every man shall have freehold to the value of xl. s. by the year at the least above all charges, within the same county where any such chooser will meddle of any such election.

Translation

Whereas by authority of a Parliament holden at Westminster the first year of the reign of King Henry, father to the King that now is, amongst other things it was ordained that the citizens and burgesses of cities and boroughs, coming to the Parliament, should be *chosen men citizens and burgesses resident, abiding and free in the same cities and boroughs, and none other*, as in the same statute more fully is contained ; which citizens and burgesses have always in cities and boroughs been chosen by citizens and burgesses, and no other, and to the sheriff of the counties returned, and upon their return received and accepted by the Parliaments before this holden :

Recites so much of 1 Hen. V. c. 1 as applies to the election of burgesses.

And also, whereas by authority of a Parliament holden at Westminster, the eighth year of the reign of the King that now is, it

Refers to 8 Hen. VI. c. 7.

Roi quorest oeptisme, ordeigne fuist en quell manere et fourme les Chivalers dez Counteez a venir as parlementz en apres teniers seront eslieux, et comment les Viscomtz dez memez lez Counteez sur ceo servient lour retournez, comme en mesme lestatut pluis pleynement appiert; par force de quele estatut eleccions des Chivalers a venir a parlement ascun foitz ont estez duement faitz et loialment retournez, tanque a ore tarde que diversez Viscomtz dez Counteez du Roialme Dengland par lour singuler availl et lucre ne ont faitz due eleccions des Chivalers, ne en tems covenable, ne bons et verroiez retournez et ascun foitz null retournez dez Chivalers Citizeins et Burgeisez loialment esluz par venir as parlementz, mez ont retournez tielx Chivalers Citezeins et Burgeisez que ne furent unquez duement eslieux et autres Citezeins et Burgeisez que ne furent unques que ceux que par Mairs et Bailiffs as ditz Viscomtz furent retournez; Et ascun foitz les Viscomtz ne ont retournez lez brefs quilz avoient pur fair eleccions des Chivalers a venir as parlementz, einz lez ditz brefs ont embesillez, et oustre null precept as Mair et Bailiffs, ou as Bailiffs ou Bailif ou Mair nest, des Citezeins et Burgeisez pur eleccions dez Citezeins et Burgeisez de venir as parlement furent par colour de cestz parolx contenuz en lez ditz brefs, quod in pleno comitatu tuo eligi facias pro comitatu tuo duos milites et pro qualibet civitate in comitatu

was ordained in what manner and form the knights of the shires coming to the Parliaments from henceforth to be holden should be chosen, and how the sheriffs of the same counties thereupon should make their returns, as in the same statute more fully appeareth :

by force of which statute elections of knights to come to the Parliaments sometimes have been duly made and lawfully returned, until now of late, that divers sheriffs of the counties of the realm of England, for their singular avail and lucre, have not made due elections of the knights nor in convenient time, nor good men and true returned, and sometimes no return of the knights, citizens and burgesses lawfully chosen to come to the Parliaments, but such knights, citizens and burgesses have been returned which were never duly chosen, and other citizens and burgesses than those which by the mayors and bailiffs were to the said sheriffs returned ; and sometimes the sheriffs have not returned the writs which they had to make election of knights to come to the Parliaments, but the said writs have imbesiled and moreover made no precept to the mayor and bailiff, or to the bailiffs or bailiff, where no mayor is, of cities and boroughs for the election of citizens and burgesses to come to the Parliament, by the colour of these words cotnained in the same writs : *Quod in pleno comitatu tuo eligi facias pro comitatu tuo duos milites, et pro qualibet*

tuo duos cives et pro quolibet burgo in comitatu tuo duos burgenses; Et auxint pur ceo que sufficeant peyne et convenable remedie pur la partie en tiel cas greve ne sont pas ordeignez en lez ditz estatutz vers lez Viscomtz Mairs et Baillifs que facent encountre la forme dez ditz estatutz :

le Roi considerant lez premisses ad ordeigne par auctorite suisdit, que lez ditz estatutz soient duement gardez et observez en toutz pointz : Et oustre ceo que chacune Viscomte apres la livere de chacune tiel bref a luy fait ferra et delivera saunz fraude un sufficeant precept desouth son seal a chacune Mair et Baillif ou as Baillifs ou Baillif ou Mair nest, des Citeez et Burghs deinz son Countee recitant le dit bref eux commandant per mesme le precept deslier, si soit Citee per Citezeins de mesme la Citee deux Citezeinz et en mesme la fourme si soit Burgh Burgeisez, de venir al parlement. Et que mesmez lez Mair et Baillifs ou Baillif ou Mair nest dez Citeez et Burghs retournent ou retourne loialment le dit precept a mesme le Viscomte per endenturez entre mesme le Viscomte et eux affair de lez ditz eleccions et dez nouns dez ditz Citezeins et Burgeisez issint per eux eslutz : Et sur ceo que chacune Viscomte face bon et droit retourne de chacune tiel bref et de chacune retourne per Mair et Baillifs ou Baillif ou Mair nest a lui fait.

civitate in comitatu tuo duos cives, et pro quolibet burgo in comitatu tuo duos burgenses; and also because sufficient penalty and convenient remedy for the party in such case grieved is not ordained in the said statutes against the sheriffs, mayors and bailiffs which do contrary to the form of the said statutes;

the King, considering the premisses, hath ordained by authority aforesaid that the said statutes shall be duly kept in all points; and moreover that the Sheriff after the delivery of any such writ to him made shall make and deliver without fraud a sufficient Precept under his seal to every mayor and bailiff, or to bailiffs or bailiff where no mayor is, of the cities and boroughs within his country, reciting the said writ, commanding them by the same precept, if it be a city, to choose by citizens of the same city, citizens, and in the same manner and form if it be a borough, by the burgesses of the same, to come to the Parliament:

And that the same mayor and bailiffs, or bailiffs or bailiff where no mayor is, shall return lawfully the precept to the same sheriffs by indenture betwixt the same sheriffs and them to be made of the said elections and of the names of the said citizens and burgesses by them so chosen, and thereupon every sheriff shall make a good and rightful return of every such writ and of every return by the mayors and bailiffs, or bailiffs or bailiff where no mayor is, to him made.

(Sheriffs transgressing this or any former Statute touching elections shall, in addition to the penalty under the Statute 8 Henry VI. c. 7, forfeit £100 to the party aggrieved. Penalty on Mayor or Bailiff making undue Return of Citizens or Burgesses, £40 to the King, £40 to the party aggrieved.¹

Time of day for election of Knights of the Shire fixed, and penalty on Sheriffs for false returns is £100 to the King and £100 to the party aggrieved.

If any one who is returned to be knight, citizen or burgess, be put out and another put in his place, penalty against the person taking his seat, £100 to the King, £100 to the party aggrieved.)

¹ *Penalties for a False Return*

Act 11 Henry IV. c. 1 (1410)

. . . Ordeigne est et establee qe les Justices as Assises prendre aient poair denquer en lours sessions des assises de tielx retournes faitz, et si par enquest et due examinacion trovee soit devrant mesmes les Justices qe ascun tell Viscont ait fait ou face enapres ascun retourne encontre la tenure du dit estatut, qe mesme le Viscont encouree la peyne de C libree, a paiers a nostre dit seigneur le Roy. Et outre ceo qe les Chivalers des Countees ensi niēt duement

Translation

It is ordained and established that the Justices assigned to take Assizes shall have power to enquire in their sessions of assizes of . . . returns made to the contrary of the statute (7 Henry IV. c. 15); and if it be found by inquest and due examination before the same Justices that any such sheriff hath made or hereafter make any return contrary to the tenor of the said statute, that then the same sheriff shall incur the penalty of One hundred pounds

retournez perdent leur gages du parlement
dancien temps acustumez.

Issint que les Chivalers dez Counteez
pur le parlement en apres a esliers soient
notablez Chivalers dez mesmez lez Counteez
pur les queux ils serront issint esluz, ou
autrement tielx notablez Esquiers gentils
homez del naissaunce dez mesmez les
Counteez comme soient ablez destre
Chivalers ; et nule home destre tiel
Chivaler que estoise en la degree de
vadlet et desouth.

to be paid to our Lord the King ; and moreover that the knights of the counties so unduly returned, shall lose their wages of the Parliament, of old time accustomed.

So that the Knights of the shires for the Parliament hereafter to be chosen shall be notable knights of the same counties for which they shall be chosen or otherwise such notable Esquires, gentlemen by birth of the same counties as shall be able to be knights, and no man to be such Knight which standeth in the degree of a yeoman and under.

X

THE REFORMATION
SETTLEMENT

The Style of Supreme Head (1534)

26 HENRY VIII. C. I

ALBEIT the King's Majesty justly and rightfully is and ought to be the supreme head of the Church of England and so is recognised by the clergy of this realm in their Convocations, yet nevertheless for corroboration and confirmation thereof and for increase of virtue in Christ's religion within this realm of England, and to repress and extirp all errors, heresies and other enormities and abuses heretofore used in the same; be it enacted by authority of this present Parliament that the King, our sovereign lord, his heirs and successors, Kings of this realm, shall be taken, accepted and reputed, the only supreme head in earth of the Church of England called *Anglicana*

ecclesia ; and shall have and enjoy, annexed and united to the Imperial Crown of this realm, as well the title and style thereof as all honours, dignities, pre-eminences, jurisdictions, privileges, authorities, immunities, profits and commodities to the said dignity of supreme head of the same Church belonging and appertaining ; and that our said sovereign lord, his heirs and successors, Kings of this realm, shall have full power and authority from time to time to visit, repress, redress, reform, order, correct, restrain and amend all such errors, heresies, abuses, offences, contempts and enormities whatsoever they be, which by any manner spiritual authority or jurisdiction ought or may lawfully be reformed, repressed, ordered, redressed, corrected, restrained or amended, most to the pleasure of Almighty God, the increase of virtue in Christ's religion and for the conservation of the peace, unity and tranquillity of this realm ; any usage, custom, foreign law, foreign authority, prescription or any other thing or things to the contrary hereof notwithstanding.

The Act of Supremacy (1559)

I ELIZABETH, C. I

An Act restoring to the Crown the ancient jurisdiction over the State ecclesiastical and spiritual, and abolishing all foreign power repugnant to the same.

Most humbly beseech your most excellent Majesty your faithful and obedient subjects, the Lords spiritual and temporal and the Commons in this your present Parliament assembled, that where in the time of the reign of your most dear Father of worthy memory, King Henry the Eighth, divers good laws and statutes were made and established, as well for the utter extinguishment and putting away of all usurped and foreign powers, and authorities out of this your realm and other your Highness's dominions and countries, as also for the restoring and uniting to the Imperial Crown of this realm the ancient jurisdictions, authorities, superiorities, and pre-eminences to the same of right belonging and appertaining; by reason whereof we your most humble and obedient subjects, from the twenty-fifth year of the reign of your said dear Father, were continually kept in good order, and were disburdened of divers great and intolerable charges and exactions before that time unlawfully taken and exacted by such foreign power and authority as before that was usurped, until such time as all the

said good laws and statutes by one Act of Parliament made in the first and second years of the reigns of the late King Philip and Queen Mary,¹ your Highness's sister,

* 1 and 2 *Philip and Mary*, c. 8 repealed the following Acts :—

21 Henry VIII. c. 13, § 9. Against dispensations for pluralities.

* 23 Henry VIII. c. 9. Citations.

* 24 Henry VIII. c. 12. Appeals.

* 23 Henry VIII. c. 20. Annates.

* 25 Henry VIII. c. 19. Submission.

* 25 Henry VIII. c. 20. Consecration.

* 25 Henry VIII. c. 21. Abrogation of exactions, dispensations, &c.

26 Henry VIII. c. 1. Style of supreme head.

* 26 Henry VIII. c. 14. Suffragans.

27 Henry VIII. c. 15. Revision of canons.

28 Henry VIII. c. 10. Abolition of the Pope's authority.

* 28 Henry VIII. c. 16. Release of dispensations.

28 Henry VIII. c. 7, § 7. Degrees of marriage.

31 Henry VIII. c. 9. Making bishops of the new sees by letters patent.

† 32 Henry VIII. c. 38. Pre-contracts.

35 Henry VIII. c. 1, § 7. Oath of Supremacy.

35 Henry VIII. c. 3. The King's style.

† 37 Henry VIII. c. 17. Allowing married D.C.L.'s to be ecclesiastical judges.

1 Edward VI. c. 12, §§ 5, 6. Abolition of special treasons.

Those Acts marked * were wholly and those marked † were partially re-enacted by the above Act 1 Eliz. c. 1.

The following are the Acts whose repeal was thus confirmed :—

26 Henry VIII. c. 1. Style of supreme head.

27 Henry VIII. c. 15. Revision of canons or Reformatio Legum.

28 Henry VIII. c. 10. Abolition of the Pope's authority.

31 Henry VIII. c. 9. Making bishops by letters patent.

35 Henry VIII. c. 3. The King's style.

35 Henry VIII. c. 1, § 7. Oath of Supremacy.

intituled an *Act repealing all statutes, articles and provisions made against the See Apostolic of Rome since the twentieth year of King Henry the Eighth, and also for the establishment of all spiritual and ecclesiastical possessions and hereditaments conveyed to the laity*, were all clearly repealed and made void, as by the same Act of Repeal more at large doth and may appear; by reason of which Act of Repeal your said humble subjects were eftsoons brought under an usurped foreign power and authority, and yet do remain in that bondage, to the intolerable charges of your loving subjects, if some redress by the authority of this your High Court of Parliament, with the assent of your Highness, be not had and provided: May it therefore please your Highness for the repressing of the said usurped foreign power and the restoring of the rights, jurisdiction and pre-eminence appertaining to the Imperial Crown of this your realm, that it may be enacted by the authority of this present Parliament; That the said Act made in the said first and second years of the reigns of the said late King Philip and Queen Mary and all and every branch, clauses and articles therein contained (other than such branches, clauses and sentences as hereafter shall be excepted) may from the last day of this session of Parliament, by authority of this present Parliament, be repealed, and shall from thenceforth be utterly void and of none effect.

II. And that also for the reviving of

divers of the said good Laws and Statutes made in the time of your said dear Father, it may also please your Highness, That one Act and Statute made in the twenty-third year of the reign of the said late King Henry the Eighth,¹ intituled an *Act that no person shall be cited out of the diocese where he or she dwelleth*, except in certain cases; and one other Act made in the twenty-fourth year of the reign of the said late King,² intituled an

23 Hen. VIII. c. 9.
Citation

¹ 23 Henry VIII. c. 9 (1532)

The preamble declares that persons dwelling in different dioceses are often cited to appear in the Courts of Arches or Audience, and often "to answer to surmised and feigned causes and suits of defamation, withholding of tithes and such other like causes and matters which have been sued more for malice and for vexation than for any just cause of suit," and that neglect of such summons has resulted in the excommunication of the disobedient party, who can only get absolved by payment of heavy fees to the court and to the summoner or apparitor.

Citations.

It is therefore enacted that none shall be cited out of the diocese wherein he dwells, except for spiritual offences or in cases of appeal, or if the local ecclesiastical judge either dare not or will not do justice, or if he is a party to the suit or if he requests the superior authority to determine the case. The penalty on ordinaries offending is double damages and costs and ten pounds—half to the King, half to any one who will sue the offender.

A proviso is added that, in cases of heresy, with consent of the ordinary or in case of the ordinary neglecting his duty, the archbishop may cite the heretic.

Other provisos save the rights of the two archbishops in the matter of probates. Fees on sealing citations are, under penalties, limited to threepence.

² 24 Henry VIII. c. 12 (1533)

PREAMBLE.—Where by divers sundry old authentic Appeals, histories and chronicles it is manifestly declared and

24 Hen. VIII. *Act that appeals in such cases as hath been*
 c 12. *used to be pursued to the See of Rome shall not*
 Appeals.

expressed that the realm of England is an empire and so hath been accepted in the world ; governed by one supreme head and King, having the dignity and royal estate of the imperial crown of the same, unto whom a body politic, compact of all sorts and degrees of people, divided in terms and by names of spirituality and temporality, been bounden and owen to bear next to God a natural and humble obedience ; he being also institute and furnished by the goodness and sufferance of Almighty God with plenary, whole and entire power, pre-eminence and authority, prerogative and jurisdiction, to render and yield justice and final determination to all manner of folk, residents or subjects within this his realm, in all causes, matters, debates and contentions happening to occur, insurge, or begin within the limits thereof, without restraint or provocation to any foreign princes or potentates of the world ; the body spiritual whereof having power when any cause of the law divine happened to come in question, or of spiritual learning, then it was declared, interpreted and showed by that part of the body politic called the spirituality, now being usually called the English Church, which always hath been reputed and also found of that sort that both for knowledge, integrity and sufficiency of number it hath been always thought and is also at this hour sufficient and meet of itself without the intermeddling of any exterior person or persons to declare and determine all such doubts, and to administer all such offices and duties as to their rooms spiritual doth appertain, for the due administration whereof, and to keep them from corruption and sinister affection, the King's most noble progenitors and the antecessors of the nobles of this realm have sufficiently endowed the said Church both with honour and possessions ; and the laws temporal, for the trial of property of lands and goods and for the conservation of the people of this realm in unity and peace without ravin or spoil was and yet is administered, adjudged and executed by sundry judges and ministers of the other part of the said body politic called the temporality ; and both their authorities and jurisdictions do conjoin together in the due administration of justice, the one to help the other.

be from henceforth had nor used but within this realm ; and one other Act made in the

This exposition of the relations of the Crown in matters of jurisdiction to the spirituality and the temporality respectively and of their relations to each other is followed by a second preamble referring to the laws of previous kings against the encroachments of Rome or other foreign power. But these have not sufficiently provided for the inconveniences which arise from appeals to Rome. *Wherefore it is enacted* that "all causes testamentary, causes of matrimony and divorces, rights of tithe, oblations and obventions" shall be henceforth determined within the realm by such courts, spiritual and temporal, as the matter in question shall require, notwithstanding any inhibition from Rome or elsewhere. Only sentences of the King's courts shall be obeyed in the realm. Furthermore, the clergy shall administer the sacraments and service of the Church to the subjects of the realm "as Catholic and Christian men ought to do," notwithstanding any such inhibition, under penalty, and in case of refusal, of a year's imprisonment and fine and ransom at the King's pleasure, and, in case of procuring such inhibition from Rome, of the penalties of *præmunire*. Thus all appeals to Rome are to cease and all such appeals are to be heard within the realm according to a prescribed form—

(1) From the archdeacon or his official to the diocesan bishop :

(2) From the bishop or his commissary within fifteen days to the archbishop for definitive and final determination without further appeal. In the case of a suit arising within the diocese of the archbishop, appeal is allowed from the archdeacon or his commissary to the Court of Arches or of Audience, and from that Court to the archbishop ; all suits begun before the archbishop are to be determined by him without appeal, saving always the prerogative of the Archbishop of Canterbury. In the case of an appeal touching the King, appeal is allowed from any of the said courts within fifteen days of the judgment to the Upper House of Convocation of the province for final determination. Persons appealing contrary to this Act should incur the penalties of *præmunire*, both they and all concerned in the appeal.

23 Hen. VIII.
c. 20.
Annates.

twenty-fifth year of the said late King,¹ concerning *restraint of payment of annates and*

¹ 23 Henry VIII. c. 20 (1532)

Restraint of payment of annates.

The preamble states that great sums of money "daily" go out of the country, especially under the title of "annates" or firstfruits, to the Court of Rome, which exacts them from all spiritual persons appointed to archbishoprics or bishoprics within the realm, in return for bulls "for confirmations, elections, admissions, postulations, provisions, collations, dispositions, institutions, installations, investitures, orders, holy benedictions, palls, or other things requisite and necessary to the attaining of those their promotions." This impoverishes both the treasure of this realm and also, when such prelates are newly promoted within "two or three years after his or their consecration," the individual promoted or his friends who have lent him money for the purpose. These "annates have risen, grown and increased, by an uncharitable custom, grounded upon no just or good title." They "were first suffered to be taken within the same realm for the only defence of Christian people against the infidels, and now they be claimed and demanded as mere duty, only for lucre, against all right and conscience." Thus it is known that, since 2 Henry VII., under this title alone, £160,000 have gone to Rome. The King and his subjects are "as obedient, devout, Catholic and humble children of God and Holy Church as any people be within any realm yet christened"; yet for two reasons it is necessary to legislate—(1) because these exactions are so intolerable that Parliament declares "that the King's Highness before Almighty God is bound, as by the duty of a good Christian prince, for the conservation and preservation of the good estate and commonwealth of this his realm" to do his utmost to repress these exactions; (2) because the extreme age of many of the prelates makes it probable that great sums will shortly go out of the realm under this head.

It is therefore enacted that all such payments except those authorised by the present Act, shall cease, and no one hereafter appointed to a bishopric shall pay them under penalty of forfeiting to the King all his goods and chattels for ever and the temporalities of his bishopric during his own tenure of the office.

Furthermore, if in the future the Pope denies the

firstfruits of archbishoprics, and bishoprics to the See of Rome; and one other Act in the

requisite bulls to any one named and presented by the King—if it is to a bishopric, the nominee shall be consecrated here in England by the archbishop of the province; if it is to an archbishopric, the nominee shall be consecrated and invested by any two other bishops of the realm whom the King appoints for the purpose, “according and in like manner as divers other archbishops and bishops have been heretofore in ancient time, by sundry the King’s most noble progenitors, made, consecrated, and invested within this realm.” Every such archbishop and bishop shall be installed, accepted and obeyed in the same way as prelates who have obtained the requisite bulls from Rome, and shall enjoy all the spiritualities and temporalities of his See like his predecessors, so long as he gives the King all the duties, rights and interests which have hitherto been paid “according to the ancient laws and customs of this realm, and the King’s prerogative royal.” At the same time, for the work of writing and sealing the necessary papal bulls, a payment is authorised of five per cent. on his income from every newly-made archbishop or bishop to the Court of Rome.

Furthermore, Parliament declares that it does not “intend to use in this or in any other like cause, any manner of extremity or violence, before gentle courtesy and friendly ways and means first approved and attempted, and without a very great urgent cause and occasion given to the contrary, but principally coveting to disburthen this realm of the said great exactions.” It therefore leaves it to the King to try to come to some friendly agreement with Rome either for the extinction or for the moderation of such payments; which agreement, when made, “shall stand in strength, force and effect of law, inviolably to be observed.” Before the next Parliament the King shall, “by his letters patent under his great seal, to be made and to be entered of record in the roll of this present Parliament,” declare whether all or any part of this Act shall “stand and be from henceforth . . . available in the law.” Finally, if the Court of Rome refuses all amicable arrangement and attempts to vex the country “by excommunication, excommenagement, interdiction, or by any other process,

said twenty-fifth year,¹ intituled an *Act concerning the submission of the Clergy to the*

censures, compulsories, ways or means," notwithstanding any of these, all sacraments and services of the Church shall continue as heretofore, and the papal censures shall not be published or executed.

(The Act was ratified and confirmed by letters patent dated 9th July, 25 Henry VIII. Cf. Report of Ecclesiastical Courts Commission i. 212.)

¹ 25 Henry VIII. c. 19 (1534)

Submission of
the clergy.

The preamble is based upon the document known as the "Submission of the Clergy." The clergy (1) have acknowledged that Convocation ought to be assembled only by the King's writ and that they will never make any new canons without the King's consent; (2) have requested that, since some existing canons are "though not only to be much prejudicial to the King's prerogative royal and repugnant to the laws and statutes of this realm, but also overmuch onerous to his highness and his subjects," a committee of thirty-two persons, half temporal, half spiritual, shall be appointed by the King to examine the existing canons and that, with the King's assent the majority of the committee shall decide which canons shall be "abrogated and annulled," and which canons "shall be approved to stand with the laws of God and consonant to the laws of this realm." *It is therefore enacted* (1) that Convocation, which shall always be assembled with the King's writ, shall put in use nothing now and shall enact nothing in the future without the King's consent under penalty of imprisonment and fine at the King's will on every one of the clergy so offending; (2) that a committee of thirty-two persons, half clergy, half lay members of Parliament, shall be appointed by the King, who shall also fill up vacancies in the number, and that according to the decision of the majority with the King's assent, under his great seal the existing canons shall be abrogated or confirmed. A proviso is added of "the King's prerogative royal or the customs, laws or statutes of this realm."

Restraint of ap-
peals.

Furthermore, from Easter, 1534, no appeals shall be made to Rome in any matter whatever; but "all manner of appeals, of what nature or condition soever they be of, or what cause or matter soever they concern," shall be

King's Majesty; and also one Act made in the said twenty-fifth year,¹ intituled an *Act*

25 Hen. VIII.
c. 19.
Submission.

made according to the provisions of the Act 24 Henry VIII. cap. 12. In addition to the provisions of that Act, it is now further provided that, "for lack of justice at or in the courts of the archbishops of this realm or in any of the King's dominions," an appeal shall lie "to the King's Majesty in the King's Court of Chancery." Thereupon "a commission shall be directed under the great seal to such persons as shall be named by the King's highness," as in the case of appeal from the admiral's court. These commissioners shall have power "to hear and definitely determine every such appeal . . . and no further appeals to be had or made from the said commissioners for the same." Every offender against this Act, together with all his abettors, shall incur the penalties of *praemunire*. Appeals "from the jurisdiction of any abbots, priors, and other heads or governors of monasteries, abbeys, priories, and other houses and places exempt," which "by reason of grants or liberties of such places exempt" were wont to go immediately to Rome, shall go immediately to the King in Chancery without any further intervention on the part of any archbishop or bishop than before the passing of this Act.

By a proviso, all canons hitherto in force and not contrary to the law of the land or the royal prerogative, shall continue in force until the work of the above-mentioned committee is concluded.

¹ 25 Henry VIII. c. 20 (1534)

The preamble recites the Act 23 Henry VIII. c. 20 for the conditional restraint of payment of annates, and says that, since the Pope, although informed of it, has done nothing to redress the complaints, the King has ratified and confirmed the aforesaid Act by his letters patent under his great seal.

Election and consecration of archbishops and bishops.

"And forasmuch as in the said Act it is not plainly and certainly expressed in what manner and fashion archbishops and bishops shall be elected, presented, invested and consecrated within this realm," *it is therefore enacted* that the above-mentioned Act shall be abrogated so far as relates (1) to the presentation, nomination or commendation to the Pope of any one for the dignity of archbishop or bishop within the realm; or (2) to the application of

25 Hen. VIII.
c. 20.

Consecration

restraining the payment of annates or firstfruits to the Bishop of Rome, and of the electing and consecrating of archbishops and

any one to the Pope for bulls, briefs, palls or other things requisite for an archbishop or bishop ; or (3) to the payment by any one of annates or firstfruits for expedition of such bulls, briefs, or palls. All such procedure shall utterly cease.

Furthermore, on the occurrence of a vacancy in an archbishopric or bishopric, the King "may grant to the prior and convent, or the dean and chapter of the cathedral churches or monasteries where the see of such archbishopric or bishopric shall happen to be void, a licence under the great seal, as of old time has been accustomed, to proceed to election of an archbishop or bishop of the see so being void, with a letter missive containing the name of the person which they shall elect and choose : by virtue of which licence" the election shall be carried out. If the electoral body fail to elect within twelve days the King shall appoint by letters patent.

In the event of such an appointment by letters patent the nomination shall be addressed—in the case of a bishop, to the archbishop of the province or, if the archbishopric happens to be vacant, to another archbishop ; in the case of an archbishop, to one archbishop and two bishops or to four bishops. And the archbishop or bishop so appointed shall be forthwith invested and consecrated by those to whom the nomination is addressed, and shall obtain his pall and all other requisites without the intervention of any bulls from Rome. But if the electoral body elects within the twelve days, the election shall be certified to the King under the common seal of the electing body and the nominee shall be known as the bishop-elect. He shall then make the proper oath and fealty to the King, who shall then by letters patent signify the election to the persons appointed above to act in the case of direct nominations by the King, except that, in the case of a bishop, the archbishop is required to confirm the election.

After the consecration the archbishop or bishop shall be enthroned or installed, according to circumstances and shall exercise his office "as any archbishop or bishop of this realm, without offending the royal prerogative of the

*bishops within this realm; and one other Act made in the said twenty-fifth year,*¹

crown and the laws and customs of this realm, might at any time heretofore do." After a lapse of twenty days, every one doing contrary to this Act shall incur the penalties of *praemunire*.

¹ 25 *Henry VIII. c. 21* (1534)

The preamble complains that the subjects of the realm "by many years past have been, and yet be greatly decayed and impoverished by such intolerable exactions of great sums of money as have been claimed and taken, and yet continually be claimed to be taken out of this your realm and others your said countries and dominions, by the Bishop of Rome, called the Pope, and the See of Rome, as well in pensions, censures, Peter-pence, procurations, fruits, suits for provisions and expeditions of bulls for archbishoprics and bishoprics, and for delegacies, and rescripts in causes of contentions and appeals, jurisdiction legatine, and also for dispensations, licences, faculties, grants, relaxations, writs called *perinde valere*, rehabilitations, abolitions, and other infinite sorts of bulls, briefs and instruments of sundry natures, names and kind in great numbers heretofore practised and obtained otherwise than by the laws, laudable uses and customs of this realm should be permitted," and that the Bishop of Rome has exacted these on the ground that "he has full power to dispense with all human laws, uses and customs of all realms, in all causes which be called spiritual," thereby derogating from the King's "imperial crown and authority royal." It asserts that the realm, "recognising no superior under God, but only your grace, has been and is free from subjection to any man's laws, but only to such as have been devised, made and ordained within this realm"; and that the King and Parliament "have full power and authority, not only to dispense, but also to authorise some elect person or persons to dispense with those and all other human laws of this realm . . . and also the said laws . . . to abrogate, annul, amplify or diminish," as shall seem good to King and Parliament. Finally it states "that the dignity, superiority, reputation and authority of the said Imperial Crown of this realm, by the long sufferance of

Exoneration of
King's subjects
from exactions.

25 Hen. VIII.
c. 21.

Abrogation of
exactions, etc.

intituled an *Act concerning the exoneration of the King's subjects from exactions and impositions heretofore paid to the See of Rome,*

the said unreasonable and uncharitable usurpations and exactions practised in the times of your most noble progenitors, is much and sore decayed and diminished, and the people of this realm thereby impoverished, and so or worse be like to continue, if remedy be not therefor shortly provided."

It is therefore enacted that "forasmuch as your Majesty is supreme head of the Church of England . . . all such pensions, censures, portions and Peter-pence which the said Bishop of Rome . . . has heretofore taken . . . shall from henceforth clearly surcease"; and that neither the King nor his subjects "shall from henceforth sue to the said Bishop of Rome . . . for licences, dispensations, compositions, faculties, grants, rescripts, delegacies or any other instruments or writings" of any kind which have hitherto been obtained from Rome; but that all such shall be obtained within the realm in the following way—In the cases of the King, the Archbishop of Canterbury may grant all such dispensations as have hitherto been obtained from Rome, or as may be needful "for the honour and surety of your highness . . . and the wealth and profit of this your realm," provided such dispensations are not "repugnant to the Holy Scriptures and laws of God." The Archbishop or his commissary may also, after examination of the fitness, grant to individuals such dispensations as have hitherto been obtained from Rome: but he is to grant no other dispensation without the licence of the King and Council. Even in the cases of dispensations hitherto obtained from Rome—if "the tax on the expedition thereof at Rome extended to the sum of £4 or above," it required the royal confirmation under the great seal and enrollment in the Chancery; all below £4 required only the Archbishop's seal, but enrollment might be had for 5s. All such dispensations, whether enrolled or not, shall be admitted as valid by the courts of law of the realm, whether spiritual or temporal, "as they should have been if they had been obtained, with all things requisite, of the See of Rome." All children born after marriages which were solemnised by virtue of such dispensations shall be held legitimate. Arrangements

and for having licenses and dispensations within this realm without suing further for the same; and one other Act made in the

are made for the registration of all dispensations granted and the fees for such grants are clearly fixed, with a heavy penalty for extortion. The existing rights of other prelates to grant such dispensations are saved. The King can, by a writ from Chancery, compel the Archbishop of Canterbury to grant a dispensation, or, if the Archbishop continues obstinate, can empower two spiritual persons to grant such dispensations. The King and Parliament disclaim any intention by this Act of declining or varying "from the congregation of Christ's Church in any things concerning the very articles of the Catholic faith of Christendom, or in any other things declared by Holy Scripture and the Word of God, necessary for your and their salvations." This Act shall give no power to the Archbishop of Canterbury or to any one else "to visit or vex any monasteries, abbeys, priories, colleges, hospitals, houses or other places religious which be or were exempt before the making of this Act": all such visitation shall be by commission from the King and not by the Bishop of Rome; and all "visitation, congregation or assembly for religion . . . shall be within the King's dominions." Nor shall this Act derogate from the Act 21 Henry VIII. c. 13 "for reformation of pluralities of benefices and for non-residence of spiritual persons upon their dignities or benefices," so as to be interpreted as allowing dispensations from the provisions of that Act. Any one suing to Rome for dispensations contrary to this Act or obeying any process from thence renders himself liable to the penalties of *praemunire*. No grants or confirmations of privileges to houses or places exempt obtained from Rome before the passing of this Act are touched by it; but no head of an exempt house shall pay any pension to Rome or accept any visitation or confirmation from thence: any such visitation or confirmation shall be made by the persons appointed under the King's Commission, but only in cases where the right already exists. All dispensations granted before March 12, 1533, to individuals or to communities both lay and religious, shall hold good, provided they are not contrary to the laws of

26 Hen. VIII.
c. 14.
Suffragans.

twenty-sixth year of the said late King,¹ intituled an *Act for nomination and consecration of suffragans within this realm*; and

the realm. The King and his Council "shall have power and authority from time to time for the ordering, redress, and reformation of all manner of indulgences and privileges thereof within this realm or within any the King's dominions, heretofore obtained at the See of Rome or by authority thereof, and of the abuses of such indulgences and privileges thereof, as shall seem good, wholesome and reasonable for the honour of God and weal of His people." This Act shall come into operation next St. John Baptist's Day unless the King by letters patent either chooses to declare it in force at any earlier date, or before that date abrogates, annuls or utterly repeals the whole or any part of this Act. Then only such part as he has not meanwhile annulled shall come into operation at that date.

¹ 26 Henry VIII. c. 14 (1534)

Suffragans.

Provision has been made for the appointment of archbishops and bishops, but none as yet for suffragans "which have been accustomed to be had within this realm for the more speedy administration of the sacraments, and other good, wholesome and devout things and laudable ceremonies, to the increase of God's honour and for the commodity of good and devout people."

It is therefore enacted "that the towns of Thetford, Ipswich, Colchester, Dover, Guildford, Southampton, Taunton, Shaftesbury, Molton, Marlborough, Bedford, Leicester, Gloucester, Shrewsbury, Bristol, Penrith, Bridgewater, Nottingham, Grantham, Hull, Huntingdon, Cambridge, and the towns of Perth and Berwick, [St. Germans in Cornwall] and the Isle of Wight, shall be taken and accepted for sees of bishops suffragan." Any archbishop or bishop wishing for a suffragan shall choose two "honest and discreet spiritual persons, being learned and of good conversation," and shall present them to the King, who shall name one of them as suffragan of any one of the above-mentioned places situated in the province to which the presenting bishop belongs. The King by letters patent shall cause the archbishop of that province to consecrate the chosen person who shall have such authority "as to suffragans of this realm heretofore

also one other Act made in the twenty-eighth year of the said late King,¹ intituled

has been used and accustomed." The consecration is to be within three months of the appointment. The emoluments and authority of suffragans shall not exceed the terms of the commission given them by the bishop for whom they act, under penalty of praemunire. The bishop who shall nominate the suffragan or the suffragan himself shall bear the cost of the consecration. A suffragan may have two benefices with cures "for the better maintenance of his dignity."

¹ 28 *Henry VIII. c. 16* (1536)

The preamble states that "the Bishop of Rome and his predecessors, of his and their covetous and ambitious minds, to the intent to advance and enrich themselves and the See of Rome, to the great impoverishing of this realm of England and other the King's dominions, contrary to God's law, the laws and statutes of this realm, and in derogation of the imperial crown of this said realm, has hitherto wrongfully exercised many usurped jurisdictions, among which he has taken upon himself, in return for money and other profits, to grant licences of various kinds which in their ignorance the subjects of this realm have accepted. They "have now sincere, pure and perfect intelligence and knowledge" of such usurped authority ; but if they should be hindered in the exercise of such privileges as they now enjoy under colour of such grant "it should be to their intolerable and utter undoing."

It is therefore enacted that all bulls, briefs, faculties and dispensations heretofore granted from Rome to any subjects of the realm, shall from henceforth be valueless and shall never hereafter be pleaded in any court of the realm, under penalty of praemunire.

Their jurisdiction is confirmed by authority of Parliament "and not by virtue of any provision or other foreign authority, licence, faculty or dispensations," to all ecclesiastical persons who at present enjoy it. Even any licence granted from Rome, on its surrender and if approved by "such persons as the King's highness shall so name and appoint to receive" such grants, may be regranted by the Archbishop of Canterbury under confirmation of the Great Seal by the Chancellor.

28 Hen. VIII.
c 16.

Release of dis-
pensations.

an *Act for the release of such as have obtained pretended licenses and dispensations from the See of Rome*; and all and every branches, words and sentences in the said several Acts and Statutes contained, by authority of this present Parliament from and at all times after the last day of this session of Parliament shall be revived and shall stand and be in full force and strength to all intents, instructions and purposes; and that the branches, sentences and words of the said several Acts and every of them from henceforth shall and may be judged, deemed and taken to extend to your Highness, your heirs and successors, as fully and largely as ever the same Acts or any of them did extend to the said late King Henry the Eighth your Highness's father.

III. And that it may also please your Highness that it may be enacted by the authority of this present Parliament, that so much of one Act or Statute made in the thirty-second year of the reign of your said dear father King Henry VIII.¹ intituled an *Act concerning pre-contracts of marriages and touching degrees of consan-*

32 Hen. VIII.
c 38.
Pre-contracts.

¹ 32 Henry VIII. c. 38 (1540)

Pre-contracts.

The usurped power of the Bishop of Rome has been exercised, among other things, in "making that unlawful which by God's word is lawful both in marriage and other things." King and Parliament desire that two things especially should be provided against: (1) the dissolution of marriages, properly solemnised and consummated, on pretence of pre-contract, in proof of which only two witnesses were required by the law of Rome: (2) the grant of dispensations for marriages between

guinity, as in the time of the late King Edward VI., your Highness's most dear brother, by one other Act or Statute was not repealed ; and also one Act made in the thirty-seventh year of the reign of the said late King Henry VIII.¹ intituled an

² and ³ Ed. VI
c. 23.

kindred which are not prohibited by God's law but which the see of Rome reserved to itself "all because they will get money by it and keep a reputation to their usurped jurisdiction." On these grounds it was possible to dissolve almost any marriage.

It is therefore enacted that marriages contracted by persons not prohibited by God's law and having been solemnised and consummated, shall be indissoluble by any pre-contract which has not been consummated. No marriage without the Levitical degrees shall be called in question.

2 and 3 Edward VI. c. 23 (1549)

Recites the above Act and states that it has been made the excuse for breach of promises even at the church door or the marriage feast.

It is therefore enacted that, as concerning pre-contracts, the former Act shall be repealed and that "when any cause or contract of marriage is pretended to have been made, it shall be lawful to the King's ecclesiastical judge of that place to hear and examine the said cause," and, if the contract is proved, to order that it be carried out under such penalties as would have been inflicted before the passing of the Act now repealed, "by the King's ecclesiastical laws." This Act does not touch marriages solemnised before it comes into operation. The Act 32 Henry VIII. c. 38, is confirmed in all other respects.

¹ 37 Henry VIII. c. 17 (1546)

"In most humble wise shew and declare unto your Highness your most faithful, humble and obedient servants, the Lords spiritual and temporal, and the Commons of this present Parliament assembled, that where your most royal Majesty is, and hath always justly been by the word of God supreme head in earth of the Church of England, and hath full power and authority to correct, punish and repress all manner of heresies, errors, vices,

Married D.C.L.'s
as ecclesiastical
judges.

37 Hen. VIII. *Act that Doctors of the Civil Law, being*
 c 17. *married, may exercise ecclesiastical jurisdiction,* and all and every branches and articles
 Married D.C. L's. *in the said two Acts last mentioned, and not*
repealed in the time of the said late King
Edward VI., may from henceforth likewise
stand and be revised and remain in their

sins, abuses, idolatry, hypocrisies, and superstitions sprung and growing within the same, and to exercise all other manner of jurisdictions, commonly called ecclesiastical jurisdiction ; nevertheless the Bishop of Rome and his adherents, minding utterly as much as in him lay, to abolish, obscure, and delete such power given by God to the princes of the earth, whereby they might gather and get to themselves the government and rule of the world, have in their councils and synods provincial made, ordained and established, and decreed divers ordinances and constitutions, that no lay or married man should or might exercise or occupy any jurisdiction ecclesiastical, nor should be any Judge or Registrar in any court commonly called ecclesiastical court, lest their false and usurped power, which they pretended and went about to have in Christ's Church, should decay, wax vile and of no reputation, as by the said Councils and constitutions provincial appeareth ; which standing and remaining in their effect, not abolished by your Grace's laws, did sound to appear to make greatly for the said usurped power of the said Bishop of Rome, and to be directly repugnant to your Majesty of supreme head of the Church and prerogative royal, your Grace being a lay man. And albeit the said decrees, ordinances, and constitutions, by a statute made in the twenty-fifth year of your most noble reign, be utterly abolished, frustrate and of none effect, yet because the contrary thereunto is not used nor put in practice by the archbishops, bishops, archdeacons, and other ecclesiastical persons, who have no manner of jurisdiction ecclesiastical, but by, under, and from your royal Majesty, it addeth or at the least may give occasion to some evil disposed persons to think a little to regard the proceedings and censures ecclesiastical made by your Highness and your Vicegerent, officials, commissaries,

full force and strength to all intents and purposes ; anything contained in the said Act of Repeal before mentioned, or any other matter or cause to the contrary notwithstanding.

IV. . . . That all other laws and statutes and the branches and clauses of any act

and judges and visitors, being also lay and married men, to be of little or of none effect and force, whereby the people gathereth heart and presumption to do evil, and not to have such reverences to your most godly injunctions and proceedings as becometh them. But forasmuch as your Majesty is the only and undoubtedly supreme head of the Church of England and also of Ireland, to whom by Holy Scripture all authority and power is wholly given to hear and determine all manner cause ecclesiastical, and to correct vice and sin whatsoever, and to all such persons as your Majesty shall appoint thereunto, that in consideration thereof, as well for the instruction of ignorant persons as also to avoid the occasion of the opinion aforesaid, and setting forth of your prerogative royal and supremacy "

It is enacted, that every layman whether married or unmarried, so long as he is a Doctor of Civil Law in any University, may be lawfully appointed to exercise ecclesiastical jurisdiction, either by the King or by any ecclesiastical officer who has authority under the King to make such appointment.

1 *Edward VI. c. 12, § 22 (1547)*

. . . that no person or persons, after the first day of February next coming, shall be indicted, arraigned, condemned or convicted, for any offence of treason, petit treason, misprision of treason, or for any word before specified to be spoken after the said first day of February, for which the same offender, speaker, offenders or speakers, shall in any wise suffer any pains of death, imprisonment, loss or forfeiture of his goods, chattels, lands or tenements, unless the same offender, speaker, offenders or speakers, be accused by two sufficient and lawful witnesses or shall willingly without violence confess the same.

Two witnesses
necessary for
treason.

or statute repealed and made void by the said Act of Repeal made in the time of the said late King Philip and Queen Mary, and not in this present Act especially mentioned and revived, shall stand, remain and be repealed and void, in such like manner and form as they were before the making of this Act ; anything herein contained to the contrary notwithstanding.

V. . . . That one Act and Statute made in the first year of the reign of the late King Edward VI.¹ . . . intituled an *Act against such persons as shall unreverently speak*

¹ 1 Edward VI. c. 1 (1547)

The preamble states that the King desires unity and concord in all things, and "in especial in the true faith and religion of God," and in obedience of himself, and would prefer that these should be brought about rather by love than by fear, but in a multitude there are always some men who "had need have some bridle of fear," for it is through such that good institutions are perverted ; and this appears "especially in matters of religion and in the great and high mysteries thereof, as in the most comfortable Sacrament of the body and blood of our Saviour Jesus Christ, commonly called the Sacrament of the altar, and, in Scripture, the supper and table of the Lord, the communion and partaking of the body and blood of Christ." It recites the circumstances of the institution of the Sacrament and declares that, notwithstanding its holy origin and character, it "has been of late marvellously abused," whether through wickedness or ignorance, by men who, because of certain abuses in connection with it, have condemned the whole institution, and sought by every means to bring it into contempt.

It is therefore enacted that any one reviling "the said most blessed Sacrament," shall suffer imprisonment and make fine and ransom at the King's will and pleasure. Inquiries are to be conducted in every shire at quarter sessions by at least three justices of the peace, of whom

against the Sacrament of the Body and Blood of Christ, commonly called the Sacrament of the Altar, and for the receiving thereof under both kinds, and all and every branches, clauses, and sentences therein contained, shall and may likewise from the last day of this session of Parlia-

one must be of the quorum, on the oath of two accusers and by verdict of jury; witnesses can be bound by recognizance to appear at the trial, suitable writs may be issued to compel the appearance of those indicted, and the justices of the peace may determine the offences or may admit the accused to bail upon sufficient securities at their discretion. The bishop of the diocese is to be summoned by a specially formulated writ to be present either in his own person or by deputy. But no indictment may be made three months after the date of the offence, and persons indicted may call as many witnesses as they like on their behalf.

"And forasmuch as it is more agreeable, both to the first institution of the said Sacrament of the most precious body and blood of our Saviour Jesus Christ, and also more conformable to the common use and practice both of the Apostles and of the primitive Church, by the space of 500 years and more after Christ's ascension, that the said blessed Sacrament should be ministered to all Christian people under both the kinds of bread and wine, than under the form of bread only, and . . . that the people being present should receive the same with the priest, than that the priest should receive it alone," *it is enacted* that the Sacrament "be hereafter commonly delivered and ministered . . . under both the kinds, that is to say, of bread and wine, except necessity otherwise require," that the priest "shall, at the least one day before, exhort all persons which shall be present, likewise to resort and prepare themselves to receive the same," and that, after a godly exhortation (since embodied in the Prayer Book) he "shall not without lawful cause, deny the same to any person that will devoutly and humbly desire it . . . not condemning thereby the usage of any Church out of the King's majesty's dominions."

ment be revived and from henceforth shall and may stand, remain and be in full force, strength, and effect, to all intents, constructions, and purposes, in such like manner and form as the same was at any time in the first year of the reign of the said late King Edward VI.; any law, statute, or other matter to the contrary in anywise notwithstanding.

1 and 2 P. and
M. c. 6.

5 Ric. II. (2) 5.

2 Hen. IV. 15.

2 Hen. V. (1) 7.

VI. . . . That one Act and Statute made in the first and second years of the said late King Philip and Queen Mary intituled an *Act for the reviving of three Statutes* made for the punishment of heresies, and also the said three Statutes¹ mentioned in the said Act and by the same Act revived, and all and every branches, articles, clauses, and

¹ 5 *Richard II. stat. 2, c. 5* (1382)

"That the King's Commissions be made and directed to the sheriffs and other ministers of our Sovereign Lord the King or other sufficient persons, learned and according to the certifications of the prelates thereof to be made in the Chancery from time to time, to arrest all such preachers and also their fauters, maintainers and abettors, and to hold them in arrest and strong prison, till they will justify them according to the law and reason of Holy Church."

2 *Henry IV. c. 15* (1401)

De haeretico
comburendo.

None shall preach without licence from his diocesan, or preach or write against the Catholic faith of the Church, or hold schools for teaching, or favour the teachers of, the new doctrines. Heterodox books shall be delivered up to the diocesan, who may arrest and imprison offenders until they purge themselves or abjure their heretical opinions. Those canonically convicted shall be imprisoned and shall make fine to the King. Those convicted and refusing to abjure or relapsing after abjuration shall be handed over to the secular

sentences contained in the said several Acts or Statutes and every of them, shall be from the last day of this session of Parliament deemed and remain utterly repealed, void, and of none effect to all intents and purposes ; anything in the said several Acts or any of them contained, or any other matter or cause to the contrary notwithstanding.

VII. And to the intent that all usurped and foreign power and authority, spiritual and temporal, may for ever be clearly extinguished, and never to be used nor obeyed within this realm or any other of your Majesty's dominions or countries ; may it please your Highness that it may be further enacted by the authority aforesaid, that no foreign prince, person, prelate, state

court, by whom, in the presence of the bishop or his commissary, the sheriff and the mayor, they shall be publicly burned for a warning to wicked men.

2 Henry V. stat. I, c. 7 (1414)

The Chancellor, Treasurer, Judges of the Bench, Justices of the Peace, sheriffs, mayors and bailiffs shall be sworn to do their utmost to stamp out Lollardy, and shall assist the Ordinaries and Commissaries in arresting Lollards. All persons convicted of heresy shall be handed over to the secular power and shall forfeit all their lands and goods as in a case of felony, except such possessions as he has to another's use. Justices of the King's Bench, of the Peace and of Assize, shall have power to inquire of heretics and to issue warrants for their arrest. Those arrested shall be handed over to the ecclesiastical judges, to whom the cognisance of heresy belongs. Those arrested by the sheriff shall be admitted to bail, and the inquiry shall be conducted before jurors who have lands, tenements or rents of the annual value of a hundred shillings.

or potentate, spiritual or temporal, shall at any time after the last day of this session of Parliament, use, enjoy or exercise any manner of power, jurisdiction, superiority, authority, pre-eminence or privilege, spiritual or ecclesiastical, within this realm or within any other your Majesty's dominions or countries that now be or hereafter shall be, but from thenceforth the same shall be clearly abolished out of this realm and all other your Highness' dominions for ever ; any statute, ordinance, custom, constitutions, or any other matter or course whatsoever to the contrary in anywise notwithstanding.

VIII. And that also it may likewise please your Highness that it may be established and enacted by the authority aforesaid, that such jurisdictions, privileges, superiorities, and pre-eminences, spiritual and ecclesiastical, as by any spiritual and ecclesiastical power or authority hath heretofore been or may lawfully be exercised or used for the visitation of the ecclesiastical state and persons, and for reformation, order, and conviction of the same and of all manner of errors, heresies, schisms, abuses, offences, contempts, and enormities, shall for ever, by authority of this present Parliament, be united and annexed to the imperial crown of this realm ; and that your Highness, your heirs or successors, kings and queens of this realm, shall have full power and authority by virtue of this Act, by letters patent under the great seal of England,

to assign, name, and authorise, when, and as often as your Highness, your heirs or successors, shall think meet and convenient, and for such and so long time as shall please your Highness, your heirs or successors, such person or persons, being natural-born subjects to your Highness, your heirs or successors, as your Majesty, your heirs or successors, shall think meet, to exercise, use, occupy and execute under your Highness etc. all manner of jurisdictions, privileges, and pre-eminences, in anywise touching or concerning any spiritual or ecclesiastical jurisdiction within these your realms of England and Ireland, or any other your Highness' dominions or countries ; and to visit, reform, redress, order, correct and amend all such heresies, errors, schisms, abuses, offences, contempts, and enormities whatsoever, which by any manner of spiritual or ecclesiastical power, authority or jurisdiction, can and may lawfully be reformed, ordered, redressed, corrected, restrained or amended, to the pleasure of Almighty God, the increase of virtue and the conservation of the peace and unity of this realm ; and that such person or persons so to be named, assigned, authorised and appointed by your Highness etc. after the said letters patent to him or them, made and delivered as is aforesaid, shall have full power and authority by virtue of this Act, and of the said letters patent, under your Highness etc. to exercise, use and execute all the premisses

according to the tenor and effect of the said letters patent ; any matter or cause to the contrary in anywise notwithstanding.

IX. And for the better observation and maintenance of this Act, may it please your Highness that it may be further enacted by the authority aforesaid, that all and every archbishop, bishop, and all and every other ecclesiastical person, and other ecclesiastical officer and minister, of what estate, dignity, pre-eminence, or degree soever he or they be or shall be, and all and every temporal judge, justiciar, mayor and other lay or temporal officer and minister, and every other person having your Highness' fee or wages within this realm or any your Highness' dominions, shall make, take and receive a corporal oath upon the Evangelist, before such person or persons as shall please your Highness etc. under the great seal of England, to assign and name, to accept and take the same according to the tenor and effect hereafter following, that is to say :

I, A.B., do utterly testify and declare in my conscience, that the Queen's Highness is the only supreme governor of this realm and of all other her Highness's dominions and countries, as well in all spiritual and ecclesiastical things or causes as temporal, and that no foreign prince, person, prelate, state or potentate, hath or ought to have any jurisdiction, power, superiority, pre-eminence or authority, ecclesiastical or spiritual, within this realm ; and therefore

I do utterly renounce and forsake all foreign jurisdictions, powers, superiorities and authorities, and do promise that from henceforth I shall bear faith and true allegiance to the Queen's Highness etc. and to my power shall assist and defend all jurisdictions, pre-eminences, privileges, and authorities granted or belonging to the Queen's Highness etc. and united or annexed to the imperial crown of this realm : so help me God, and by the contents of this Book.¹

¹ 5 *Elizabeth, c. 1* (1563)

§ 4. And moreover, be it enacted, that as well all manner of persons expressed and appointed in the Act made in the first year of the Queen's Majesty's reign that now is (*i.e.*, the Act of Supremacy) . . . to take the oath set forth in the same, as all other persons which have taken orders, commonly called *ordines sacros* or Ecclesiastical Orders, or have been, or shall be . . . admitted to any degree of learning in any University within this realm . . . and all schoolmasters, and public and private teachers of children, as also all manner of persons that have taken or hereafter shall take any degree of learning in the Common Laws of this realm, as well utter-barristers as benchers . . . in any house of court, and all principal treasurers, and such as be of the grand company in every Inn of Chancery, and all attorneys, proto-notaries, and philizers, towards the laws of the realm, and all manner of sheriffs, escheators, and feodaries, and all other persons which . . . have been or shall be admitted to any ministry or office in the Common Law or any other law, . . . and all other officers of any court whatsoever, shall take a corporal oath upon the Evangelists, before they shall be admitted . . . to take upon them to . . . exercise . . . any such vocation, office [etc.] as is aforesaid . . .

For the assurance of the Queen's royal power.

§ 13. And be it further enacted, that every person which hereafter shall be elected or appointed a knight, citizen or burgess, or baron for any of the five ports, for

X. And that it may be also enacted, that if any such archbishop, bishop or other ecclesiastical officer or minister, or any of the said temporal judges, justiciaries or other lay officer or minister, shall peremptorily or obstinately refuse to take or receive the said oath, that then he so refusing shall forfeit and lose only during his life all and every ecclesiastical and spiritual promotion, benefice and office, and every temporal and lay promotion and office, which he hath solely at the time of such refusal made ; and that the whole title, interest and incumbency in every such promotion, benefice and other office as against such person only so refusing during his life shall clearly cease and be void as though the party so refusing were dead ; and that also all and every such person and persons so refusing to take the said oath shall immediately after such refusal, be from thenceforth during his life disabled to retain or exercise any office or other promotion which he at the time of such refusal hath jointly or in common with any other person or persons ; and that all and every person or persons that at any

any Parliament hereafter to be holden, shall from henceforth, before he shall enter into the Parliament House or have any voice there, openly receive and pronounce the said oath before the Lord Steward for the time being, or his deputy for that time to be appointed . . .

§ 14. Provided always, that forasmuch as the Queen's Majesty is otherwise sufficiently assured of the faith and loyalty of the temporal lords of her Highness' Court of Parliament, therefore this Act shall not extend to compel any temporal person, of or above the degree of a baron of this realm, to take the oath aforesaid. . . .

time hereafter shall be preferred, promoted or collated, to any archbishopric or bishopric, or to any other spiritual or ecclesiastical benefice, promotion, dignity office or ministry, or that shall be by your Highness etc. preferred or promoted to any temporal or lay office, ministry, or service within this realm or in any your Highness' dominions, before he or they shall take upon him or them to receive, use, exercise, supply or occupy any such archbishopric, bishopric, promotion, dignity, office, ministry or service, shall likewise make, take, and receive the said corporal oath before-mentioned upon the Evangelist, before such persons as have or shall have authority to admit any such person to any such office, ministry or service, or else before such person or persons as by your Highness, etc., by commission under the great seal of England, shall be named, assigned or appointed to minister the said oath.¹

¹ 5 *Elizabeth, c. 1* (1563).

§ 5. And also be it enacted, that every archbishop and bishop within this realm shall have full power, by virtue of this Act, to tender the oath aforesaid, to every spiritual or ecclesiastical person within their proper diocese, as well in places and jurisdictions exempt as elsewhere.

* * * * *

§ 7. And be it also further enacted, that if any person compellable by this Act or by the said Act made in the said first year (1 Eliz. c. 1) to take the said oath . . . shall . . . refuse to take the said oath in manner and form aforesaid, that then the party so refusing, and being thereof lawfully indicted or presented within one year next after such refusal, and convicted or attainted at any

XI. . . . That if any such person or persons as at any time hereafter shall be promoted, preferred, or collated to any such promotion spiritual or ecclesiastical, benefice, office or ministry, or that by your Highness etc. shall be promoted or preferred to any temporal or lay office, ministry or service, shall and do peremptorily and obstinately refuse to take the same oath so to him to be offered, that then he or they so refusing shall presently be judged disabled in the law to receive, take or have the same promotion spiritual or ecclesiastical, the same temporal office, ministry or service, within this realm or any other your Highness's dominions to all intents, constructions and purposes.

XII. . . . That all and every person and persons temporal, suing livery or oustre le maine out of the hands of your Highness etc. before his or their livery or oustre le

time after, according to the laws of this realm, shall suffer the penalties ordained and provided by the Statute of Provision and Praemunire aforesaid.

* * * *

§ 9. And for stronger defence and maintenance of this Act, it is further enacted, that if any such offender as is aforesaid of the first part of this Statute . . . after such conviction and attainder as is aforesaid, do afterwards commit the said offences or any of them in manner aforesaid, and be thereof duly convicted and attainted as is aforesaid ; and also, that if any the persons appointed by this Act to take the oath aforesaid, do, after the space of three months next after the first tender thereof, the second time refuse to take . . . the same . . . , that then every such offender for the same second offence shall . . . suffer the same pains . . . and execution as is used in cases of high treason.

maine sued forth and allowed, and every temporal person and persons doing any homage to your Highness etc. or that shall be received into service with your Highness etc. shall make, take and receive the said corporal oath before-mentioned before the Lord Chancellor of England or the Lord Keeper of the great seal for the time being, or before such person or persons as by your Highness etc. shall be named and appointed to accept or receive the same: and that also all and every person and persons taking orders, and all and every other person and persons which shall be promoted or preferred to any degree of learning in any University within this your realm or dominions, before he shall receive or take any such orders, or be preferred to any such degree of learning, shall make, take and receive the said oath by this Act set forth and declared, as is aforesaid, before his or their ordinary, commissary, chancellor, vice-chancellor, or their sufficient deputies in the said University.

XIII. Provided always . . . that if any person having any estate of inheritance in any temporal office or offices shall hereafter obstinately and peremptorily refuse to accept and take the said oath as is aforesaid, and after at any time during his life shall willingly require to take and receive the said oath, and so do take and accept the same oath before any person or persons that shall have lawful authority to minister the same,* that then every such person im-

mediately after he hath so received the same oath shall be vested, deemed and judged in like estate and possession of the said office as he was before the said refusal, and shall and may use and exercise the said office in such manner and form as he should or might have done before such refusal ; anything in this Act contained to the contrary in any wise notwithstanding.

XIV. And for the more sure observation of this Act, and the utter extinguishment of all foreign and usurped power and authority, may it please your Highness that it may be further enacted by the authority aforesaid, that if any person or persons dwelling or inhabiting within this your realm, or in any other your Highness' realms or dominions, of what estate, dignity or degree soever he or they be, after the end of thirty days next after the determination of this session of this present Parliament, shall, by writing, printing, teaching, preaching, express words, deed or act, advisedly, maliciously, and directly affirm, hold, stand with, set forth, maintain or defend the authority, pre-eminence, power or jurisdiction, spiritual or ecclesiastical, of any foreign prince, prelate, person, state or potentate whatsoever, heretofore claimed, used or usurped within this realm or any dominion or country being within or under the power, dominion or obeisance of your Highness, or shall advisedly, maliciously and directly put in use or execute anything for the extolling, advancement, setting forth, main-

tenance or defence of any such pretended or usurped jurisdiction, power, pre-eminence or authority or any part thereof, that then every such person and persons so doing and offending, their abettors, aiders, procurers and counsellors, being thereof lawfully convicted and attainted according to the due order and course of the common laws of this realm, for his or their first offence shall forfeit and lose unto your Highness etc. all his and their goods and chattels, as well real as personal.

And if any such person so convicted or attainted shall not have or be worth of his proper goods and chattels to the value of twenty pounds at the time of such his conviction or attainder, that then every such person so convicted and attainted over and besides the forfeiture of all his said goods and chattels shall have and suffer imprisonment by the space of one whole year without bail or mainprise.

And that also all and every the benefices, prebends and other ecclesiastical promotions and dignities whatsoever of every spiritual person so offending and being attainted shall immediately after such attainder be utterly void to all intents and purposes as though the incumbent thereof were dead, and that the patron and donor of every such benefice, prebend, spiritual promotion and dignity shall and may lawfully present unto the same, or give the same in such manner and form as if the said incumbent were dead.

And if any such offender or offenders

after such conviction or attainder do eftsoons commit or do the said offences or any of them in manner and form aforesaid, and be thereof duly convicted and attainted as is aforesaid, that then every such offender and offenders shall for the same second offence incur into the dangers, penalties and forfeitures ordained and provided by the Statute of Provision and Praemunire made in the sixteenth year of the reign of King Richard II.

And if any such offender or offenders, at any time after the said second conviction and attainder, do the third time commit and do the said offences or any of them in manner and form aforesaid, and be thereof duly convicted and attainted as is aforesaid, that then every such offence or offences shall be deemed and adjudged high treason, and that the offender and offenders therein, being thereof lawfully convicted and attainted according to the laws of this realm, shall suffer pains of death and other penalties, forfeitures and losses, as in cases of high treason by the laws of this realm.

XV. (Any one committing any of these offences by preaching, teaching or words may be lawfully indicted only within the space of one half year after the commission of the offence ; and any one imprisoned on such a charge and not indicted within that space shall be set at liberty.)

XVI. (Nothing in this Act shall repeal any part of the Act of Repeal—Stat. 1 and 2 Phil. and Mary, c. 8.—which affixes the

penalty of praemunire, *i.e.*, to any one who shall molest the holders of Church lands.)

XVII. (Any one offending against any Act revived by this present Act shall not be liable to the penalties until the lapse of a period of thirty days from the close of the present session of Parliament.)

XVIII. And if it happen that any peer of this realm shall fortune to be indicted of and for any offence that is revived or made praemunire or treason by this Act, that then he so being indicted shall have his trial by his peers, in such like manner and form as in other cases of treason hath been used.

XIX. Provided always and be it enacted as is aforesaid, that no manner of order, act or determination for any matter of religion or cause ecclesiastical, had or made by the authority of this present Parliament, shall be accepted, deemed, interpretated or adjudged at any time hereafter to be any error, heresy, schism or schismatical opinion ; any order, degree, sentence, constitution or law, whatsoever the same be, to the contrary notwithstanding.

XX. Provided always etc. that such person or persons to whom your Highness etc. shall hereafter by letters patent under the great seal of England give authority to have or execute any jurisdiction, power or authority spiritual, or to visit, reform, order or correct any errors, heresies, schisms, abuses or enormities by virtue of this Act, shall not in any wise have authority

or power to order, determine or adjudge any matter or cause to be heresy, but only such as heretofore have been determined, ordered or adjudged to be heresy by the authority of the canonical Scriptures, or by the first four General Councils, or any of them, or by any other General Council wherein the same was declared heresy by the express and plain words of the said canonical Scriptures, or such as hereafter shall be ordered, judged or determined to be heresy by the High Court of Parliament of this realm, with the assent of the Clergy in their Convocation ; anything in this Act contained to the contrary notwithstanding.

XXI. . . . That no person shall be hereafter indicted or arraigned for any the offences made, ordained, revived or adjudged by this Act, unless there be two sufficient witnesses or more to testify and declare the said offences whereof he shall be indicted or arraigned ; and that the said witnesses or so many of them as shall be living and within this realm at the time of the arraignment of such person so indicted shall be brought forth in person face to face before the party so arraigned, and there shall testify and declare what they can say against the party so arraigned, if he require the same.

XXII. Provided also etc. that if any person or persons shall hereafter happen to give any relief, aid or comfort or in any wise be aiding, helping or comforting to the person or persons of any that shall

hereafter happen to be any offender in any matter or case of praemunire or treason revived or made by this Act, that then such relief, aid or comfort given shall not be judged or taken to be any offence, unless there be two sufficient witnesses at the least that can and will openly testify and declare that the person or persons that so gave such relief, aid or comfort had notice and knowledge of such offence committed and done by the said offender at the time of such relief, aid or comfort so to him given or ministered ; anything in this Act contained or any other matter or cause to the contrary in any wise notwithstanding.

XI

THE PETITION OF RIGHT

3 Charles I. c. 1, 1628

THE petition exhibited to his Majesty by the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, concerning divers Rights and Liberties of the Subjects, with the King's Majesty's royal answer thereunto in full Parliament.

To the King's Most Excellent Majesty. Humbly show unto our Sovereign Lord the King, the Lords Spiritual and Temporal, and Commons in Parliament assembled, that whereas it is declared and enacted by a statute made in the time of the reign of King Edward the First, commonly called *Statutum de Tallagio non concedendo*,¹ that

¹ *Articuli inserti in Magna Carta.*

I. Nullum talliagium vel auxilium per nos vel haeredes nostros de cetero in regno nostro imponatur seu levetur,

no tallage or aid shall be laid or levied by the King or his heirs in this realm, without the good will and assent of the archbishops, bishops, earls, barons, knights, burgesses, and other the freemen of the commonalty of this realm :

and by authority of Parliament holden in the five and twentieth year of the reign of King Edward the Third,¹ it is declared and enacted, that from thenceforth no person shall be compelled to make any loans to the King against his will, because such loans were against reason and the franchise of the land ; and by other laws of this realm it

sine voluntate et assensu communi archiepiscoporum, episcoporum et aliorum praelatorum, comitum, baronum, militum, burgensium, et aliorum liberorum hominum in regno nostro. (Chron. W. de Hemingburgh, ii. 153.)

Cf. 25 Edward I. stat. 1, c. 6 (1297)

E ausi avoms grante pur nous e pur nos heirs as ercevesques, evesques, abbes e priurs, e as autres gentz de seinte eglise, et as contes et barons et a tote la communante de la terre, qe mes pur nule busoigne tieu manere des aides, mises ne prises de nostre roiaume ne prendroms, fors qe par commun assent de tut le roiaume, et a commun profit de meisme le roiaume, sauve les auncienes aides et prises dues et custumees.

Moreover we have granted for us and our heirs as well to archbishops, bishops, abbots, priors and other folk, of holy church, as also to earls, barons, and to all the commonalty of the land, that for no business from henceforth we shall take of our realm such manner of aids, tasks nor prises, but by the common assent of all the realm and for the common profit thereof, saving the ancient aids and prises due and accustomed.

¹ This Statute does not appear upon the Statute Book.

is provided,¹ that none should be charged by any charge or imposition called a Benevolence, or by such like charge; by which the statutes before-mentioned, and other the good laws and statutes of this realm,

¹ 1 *Richard III. c. 2* (1483).

Nostre Seignur le Roy remembrant coment les communes de cest son Roialme par novelx et des loialx invencions et enordinate covetise, encountre la ley de cest Roialme ount este misez a graund servitude et enportablez charges et exaccions, et en especiale par une novele imposition appelle Benevolence, parout diversez ans les subgiettes et communes de cest terre encountre leur volentees et libertie ount paieiz graundz sommes de moneie a lour bien pres final destruccion. . . . Pur qoi nostre dit Seignur le Roy, de ladvys et assent des ditz seignurs (espirituels et temporels) et communes en le dit Parlement assemblez et par auctorite dicell, voet et ordeigne qe ses subgiettes et communaltee de cest son Roialme de cy enavant en null maniere soient chargez par null tiel charge ou imposition appelle Benevolence, ne par tiel semblable chargee, et qe tielx exaccions appelez Benevolence devant cest

Ourlord the King remembering how the commons of this his realm by new and unlawful inventions and inordinate covetousness, against the law of this realm, have been put to great thralldom and impotable charges and exactions, and in especial by a new imposition named a benevolence, whereby divers years the subjects and commons of this land against their wills and freedom have paid great sums of money to their almost utter destruction; therefore the King wills it be ordained by the advice and assent of his lords spiritual and temporal, and the commons of this present Parliament assembled, and by the authority of the same, that his subjects and the commonalty of this his realm from henceforth in no wise be charged by none such charge or imposition called Benevolence, nor by such like charge; and that such exactions called Benevolences, afore this time taken, be taken for no example to

your subjects have inherited this freedom, that they should not be compelled to contribute to any tax, tallage, aid, or other like charge, not set by common consent in Parliament :

Yet nevertheless of late divers commissions directed to sundry Commissioners in several counties with instructions have issued, by means whereof your people have been in divers places assembled, and required to lend certain sums of money unto your Majesty, and many of them upon their refusal so to do, have had an oath administered unto them, not warrantable by the laws or statutes of this realm, and have been constrained to become bound to make appearance and give attendance before your Privy Council, and in other places, and others of them have been therefore imprisoned, confined, and sundry other ways molested and disquieted ; and divers other charges have been laid and levied upon your people in several counties by Lords Lieutenants, Deputy Lieutenants, Commissioners for Musters, Justices of Peace and others, by command or direction from your Majesty or your Privy Council, against the laws and free customs of this realm :

temps prizez soient pris
pur null exemple de faire
tiel ou ascune semblable
charge dascuns sez ditz
subgiettes de cest Roialme
en apres, mes soit il
dampne et adnulle pur
toutz jours.

make such or any like
charge of any his said
subjects of this realm here-
after, but should be damp-
ned and annulled for ever.

And where also by the statute called "The Great Charter of the Liberties of England," it is declared and enacted,¹ that no freeman may be taken or imprisoned or be dis-seised, of his freeholds or liberties, or his free customs, or be outlawed or exiled, or in any manner destroyed, but by the lawful judgment of his peers, or by the law of the land :

And in the eight and twentieth year of the reign of King Edward the Third, it was declared and enacted by authority of Parliament,² that no man of what estate or condition that he be, should be put out of his land or tenements, nor taken, nor imprisoned, nor disinherited, nor put to death, without being brought to answer by due process of law :

Nevertheless, against the tenor of the said statutes, and other the good laws and statutes of your realm, to that end provided,³

¹ Magna Carta, § 39 (p. 48).

² 28 *Edward III. c. 3* (1355)

Qe nul homme de quel
estate ou condicion qil soit,
ne soit oste de terre ne de
tenement, ne pris, nem-
prisone ne desherite ne
mis a la mort, saunz estre
mesne en respons par due
proces de lei.

That no man of what
estate or condition that he
be, shall be put out of land
or tenement, nor taken,
nor imprisoned, nor disin-
herited, nor put to death,
without being brought in
answer by due process of
the law.

³ 37 *Edward III. c. 18* (1363)

Qe tous ceux qe font
tiels suggestions (*i.e.* faux
suggestions au roi mesmes

That all they that make
such suggestions (*i.e.* false
suggestions" to the King

divers of your subjects have of late been imprisoned without any cause showed, and when for their deliverance they were brought before your Justices, by your Majesty's writs of Habeas Corpus, there to undergo and receive as the Court should order, and their keepers commanded to certify the causes of their detainer; no cause was certified, but that they were detained by your Majesty's special command, signified by the Lords of your Privy Council, and yet were returned back to several prisons, without being charged with any-

sibien par malice come en autre manere) soient mandez ove les ditz suggestions, devant le Chaunceller, Tresorer et son grant conseil; et qe illeoques ils troevent seurte a poursuivre lour suggestions, et dencourer mesme la peyne qe lautre avereit sil fut atteint, encas qe sa suggestion soit trove malveys; et qe adonques proces de ley soit fait devers eux sanz estre pris ou emprisonnez contre la fourme de la dite chartre et autres estatuz.

himself, as well for malice as otherwise) be sent with the same suggestions before the Chancellor, Treasurer, and his Grand Council, and that they there find surety to pursue their suggestions, and incur the same pain that the other should have had if he were attainted, in case that the suggestion be found evil; and that this process of the law be made against them, without being taken and imprisoned against the form of the said Charter and other statutes.

But in 42 *Edward III. c. 3* (1368) it is again conceded—

Qe nul homme soit mis a respondre sanz presentement devant Justices, ou chose de record ou per due processe et brief original, solone launcien leye de la terre.

That no man be put to answer without presentment before Justices, or matter of record, or by due process and writ original, according to the old law of the land.

thing to which they might make answer according to the law.¹

And whereas of late great companies of soldiers and mariners have been dispersed into divers counties of the realm, and the inhabitants against their wills have been compelled to receive them into their houses, and there to suffer them to sojourn, against the laws and customs of this realm, and to the great grievance and vexation of the people : ²

¹ Questions submitted by Charles I. to the Judges, 1628 (pp. 268-9).

² *Petition concerning the Billeting of Soldiers, presented April 14, 1628.*

To the King's Most Excellent Majesty—In all humility complaining, sheweth unto your Most Excellent Majesty, your loved and dutiful Commons now in Parliament assembled, That whereas by the fundamental laws of this realm every freeman hath and of right ought to have a full and absolute property in his goods and estate, and that therefore the billeting and placing soldiers in the house of any such freeman against his will, is directly contrary to the said laws under which we and our ancestors have been so long and happily governed ; yet in apparent violation of the said ancient and undoubted right of all your Majesty's loyal subjects of this your kingdom in general, and to the grievous and insupportable vexation and detriment of many counties and persons in particular, a new and almost unheard-of way hath been invented and put in practice, to lay soldiers upon them, scattered in companies here and there, even in the heart and bowels of this kingdom ; and to compel many of your Majesty's subjects to receive and lodge them in their own houses, and both themselves and others to contribute towards the maintenance of them, . . . inso-much as we cannot sufficiently recount, nor . . . are we able to represent unto your Majesty the innumerable mischiefs and most grievous exactions that, by this means alone, we do now suffer ; whereof . . . we beg leave to

And whereas also by authority of Parliament, in the five and twentieth year of the offer to your . . . compassionate consideration, a few of them in particular.

1. The service of Almighty God is hereby greatly hindered, the people in many places not daring to repair to the church, lest in the mean time the soldiers should rifle their houses.

2. The ancient and good government of the country is hereby neglected and almost contemned.

3. Your officers of justice in performance of their duties have been resisted and endangered.

4. The rents and revenues of your gentry greatly and generally diminished: farmers to secure themselves from the soldiers' insolence, being by the clamour and solicitation of their fearful and injured wives and children, enforced to give up their wonted dwellings, and to retire themselves into places of more secure habitation.

5. Husbandmen, that are as it were the hands of the country, corrupted by ill example of the soldiers, and encouraged to idle life, give over work, and rather seek to live idly at another man's charge than by their own labour.

6. Tradesmen and artificers almost discouraged; by being enforced to leave their trades and to employ their time in preserving themselves and their families from violence and cruelty.

7. Markets unfrequented, and our ways grown so dangerous, that the people dare not pass to and fro upon their usual occasions.

8. Frequent robberies, assaults, batteries, burglaries, rapes, rapines, murders, barbarous cruelties and other most abominable vices and outrages are generally complained of from all parts where these companies have been and have their abode; few of which insolences have been so much as questioned, and fewer, according to their demerit, punished.

They apprehend further dangers—"one, in regard of your subjects at home"—namely, the junction of "the meaner sort of your people being exceeding poor" with the disorderly soldiers in a rebellion: "the other, of enemies from abroad," namely, since "many of these companies, . . . are such as do openly profess themselves papists," and especially since many of their officers have

reign of King Edward the Third, it is declared and enacted,¹ that no man shall

served abroad on the side of Spain, "if occasion serve, they will rather adhere to a foreign enemy of that religion than to your Majesty, their liege lord and sovereign."

31 *Charles II. c. 1, § 54* (1680)

And whereas by the laws and customs of this realm the inhabitants thereof cannot be compelled against their wills to receive soldiers into their houses and to sojourn them there; Be it . . . enacted . . . That no officer, military or civil, nor any other person whatever, shall from henceforth presume to place, quarter, or billet any soldier or soldiers upon any subject or inhabitant of this realm, of any degree, quality or profession whatever, without his consent; and that it shall and may be lawful for every such subject and inhabitant to refuse to sojourn or quarter any soldier or soldiers, notwithstanding any command, order, warrant or billeting whatever.

¹ 25 *Edward III. stat. 5, c. 4* (1351-2).

Que nul desore soit pris par petition ou suggestion faite a nostre Seignur le Roi ou a son conseil, sil ne soit par enditement ou presentement des bones et loiaulx du visnee ou tiele fait se face et en due manere ou proces fait sur brief original a la commune loi; ne qe nul soit ouste de ses franchises ne de son frank tenement sil ne soit mesne duement en respons, et forjugge dyceles par voie de lei; et si rien soit fait al encontre soit redresse et tenue pur nul.

That from henceforth none shall be taken by petition or suggestion made to our lord the king, or to his Council, unless it be by indictment or presentment of good and lawful people of the same neighbourhood where such deeds be done, in due manner or by process made by writ original at the common law; nor that none be out of his franchises, nor of his freeholds, unless he be duly brought into answer, and prejudged of the same by the course of the law; and if anything be done against the same, it shall be redressed and holden for none.

be forejudged of life or limb against the form of the Great Charter, and the law of the land : and by the said Great Charter and other the laws and statutes of this your realm no man ought to be adjudged to death but by the laws established in this your realm, either by the customs of the same realm or by Acts of Parliament : and whereas no offender of whatsoever kind is exempted from the proceedings to be used, and punishments to be inflicted by the laws and statutes of this your realm : nevertheless of late divers commissions under your Majesty's great seal have issued forth,¹ by

*Commission for Punishing Disorders among Soldiers
by Martial Law.*

Charles by the grace of God, &c., to our trusty and well beloved A. B. C. Forasmuch as some dissolute and disordered persons amongst the soldiers and mariners . . . may commit felonies, robberies or other outrages or offences . . . we have thought good, by the advice of our Privy Council, to take a fitting course for repressing and punishing of the same offences, if any such be, and for prevention of the like in the future. Know ye therefore that we, reposing assured trust and confidence in the wisdom, fidelity and understanding of you the said A. B. C., have appointed you to be our Commissioners, and we do, by these presents, give unto you or any three or more of you, full power and authority, in all places within our county of [Kent] as well within liberties as without, to proceed according to the justice of martial law against such soldiers or mariners or other dissolute persons joining with them or any of them, as within the said county or any part thereof, shall at any time after the publication of this our Commission, commit any robbery, felony, mutiny or other outrage, or misdemeanour, or which shall withdraw themselves from their places, service, or charge . . . or shall be found within the said county or any part thereof, which by the martial

which certain persons have been assigned and appointed Commissioners with power and authority to proceed within the land, according to the justice of martial law

law should or ought to be punished with death, and by such summary course and order as is agreeable to martial law, and as is used in armies in times of war, to proceed to the trial and condemnation of such delinquents and offenders, and them cause to be executed and put to death, according to the law martial, for an example of terror to others, and to keep the rest in due awe and obedience; to which purpose our will and pleasure is that you cause to be erected such gallows or gibbets and in such places within the said county as you shall think fit, and thereupon to cause the same offenders to be executed in open view, that others may take warning thereby to demean themselves in such due order and obedience as good subjects ought to do; straightly charging and commanding all mayors, sheriffs, justices of peace, constables, bailiffs, and other officers, and all other our loving subjects whatsoever, upon their allegiance unto us and our crown, to be aiding and assisting to you . . . in the due execution of this our royal commandment: And these presents shall be unto you and every of you a sufficient warrant and discharge for the doing and executing . . . all and every such act and acts, thing and things as you . . . shall find requisite to be done concerning the premises.

In witness whereof etc.

Witness Our self at [Westminster] the [thirtieth] day of [April].
Per ipsum regem.

1 *William and Mary*, Sess. 2, c. 4 (1689)

An Act for punishing officers and soldiers who shall mutiny or desert their Majesties' service and for punishing false musters.

Extract from
Annual Mutiny
Act.

Whereas the raising or keeping a standing army within this kingdom in time of peace unless it be with consent of Parliament is against law: And whereas it is judged necessary by their Majesties and this present Parliament that during this time of war several of the forces which are now on foot should be continued and others raised

against such soldiers and mariners, or other dissolute persons joining with them, as should commit any murder, robbery, felony, mutiny, or other outrage or misdemeanour

for the safety of the kingdom [etc. *the reasons differing from year to year*] : And whereas no man may be fore-judged of life or limb or subjected to any kind of punishment by martial law or in any other manner than by the judgment of his peers, and according to the known and established laws of this realm : Yet nevertheless it being requisite for retaining such forces as are or shall be raised during this exigence of affairs, in their duty, that an exact discipline be observed, and that soldiers who shall mutiny or stir up sedition or shall desert their Majesties' service be brought to a more exemplary and speedy punishment than the usual forms of law will allow.

Be it therefore enacted . . . That from and after [*a specified date*] every person being in their Majesties' service in the army, and being mustered and in pay as an officer or soldier, who shall . . . excite, cause or join in any mutiny or sedition in the army or shall desert their Majesties' service in the army . . . shall suffer death or such other punishment as by a court martial shall be inflicted.

§ 17. And whereas [quoting the Petition of Right and 31 Car. II. c. 1]. But forasmuch as at this present time *there is such and such reason for marching of troops*, Be it enacted . . . That for and during the continuance of this Act . . . it shall and may be lawful for the constables, tithingmen, headboroughs and other chief officers and magistrates of cities (boroughs), towns and villages and other places in the kingdom of England, Dominion of Wales and town of Berwick upon Twced . . . to quarter and billet the officers and soldiers in their Majesties' service in inns, livery stables, ale-houses, victualling houses and all houses selling brandy, strong waters, cyder, metheglin by retail to be drunk in their houses and no other, and in no private houses whatsoever. *Owners of private houses have a remedy at law. Officers and soldiers billeted shall pay reasonable prices which shall be regulated at Quarter Sessions.*

whatsoever, and by such summary course and order, as is agreeable to martial law, and is used in armies in time of war, to proceed to the trial and condemnation of such offenders, and them to cause to be executed and put to death, according to the law martial :

By pretext whereof, some of your Majesty's subjects have been by some of the said Commissioners put to death, when and where, if by the laws and statutes of the land they had deserved death, by the same laws and statutes also they might, and by no other ought to have been, adjudged and executed :

And also sundry grievous offenders by colour thereof, claiming an exemption, have escaped the punishments due to them by the laws and statutes of this your realm, by reason that divers of your officers and ministers of justice have unjustly refused, or forborne to proceed against such offenders according to the same laws and statutes, upon pretence that the said offenders were punishable only by martial law, and by authority of such commissions as aforesaid, which commissions, and all other of like nature, are wholly and directly contrary to the said laws and statutes of this your realm :

They do therefore humbly pray your Most Excellent Majesty, that no man hereafter be compelled to make or yield any gift, loan, benevolence, tax, or such like charge, without common consent by Act of Parliament ; and that none be called to make answer, or take such oath, or to give attendance, or be

confined, or otherwise molested or disquieted concerning the same, or for refusal thereof ; and that no freeman, in any such manner as is before-mentioned, be imprisoned or detained ; and that your Majesty will be pleased to remove the said soldiers and mariners, and that your people may not be so burdened in time to come ; and that the foresaid commissions for proceeding by martial law, may be revoked and annulled ; and that hereafter no commissions of like nature may issue forth to any person or persons whatsoever, to be executed as aforesaid, lest by colour of them any of your Majesty's subjects be destroyed or put to death, contrary to the laws and franchise of the land.

All which they most humbly pray of your Most Excellent Majesty, as their rights and liberties according to the laws and statutes of this realm : and that your Majesty would also vouchsafe to declare, that the awards, doings, and proceedings to the prejudice of your people, in any of the premises, shall not be drawn hereafter into consequence or example : and that your Majesty would be also graciously pleased, for the further comfort and safety of your people, to declare your royal will and pleasure, that in the things aforesaid all your officers and ministers shall serve you, according to the laws and statutes of this realm, as they tender the honour of your Majesty, and the prosperity of this kingdom.

XII

THE LIBERTY OF THE INDIVIDUAL

Remonstrance of the Judges against Illegal Commitments, 1591

AND where it pleased your Lordships to will divers of us to set down in what cases a person sent to custody by her Majesty, her Council [or] some one or two of them, are to be detained in prison and not delivered by her Majesty's Courts or Judges, we think that if any person be committed by her Majesty's commandment from her person, or by order from the Council Board, or if any one or two of her Council commit one for high treason, such persons, so in the case before committed, may not be delivered by any of her Courts without due trial by the law and judgment of acquittal had. Nevertheless the Judges may award the Queen's writ to bring the bodies of such prisoners before them; and

if upon return thereof the causes of their commitment be certified to the Judges, as it ought to be, then the Judges in the cases before ought not to deliver him, but to remand him to the place from whence he came, which cannot be conveniently done unless notice of the cause in generality or else specially be given to the keeper or gaoler that shall have the custody of such prisoner. (Anderson's Reports, i. 298.)

Questions submitted by Charles I. to the Judges, 1628

Q. Whether in no case whatsoever the King may not commit a subject without showing cause.

A. We are of opinion that, by the general rule of law, the cause of commitment by his Majesty ought to be shown; yet some cases may require such secrecy, that the King may commit a subject without showing the cause, for a convenient time.

Q. Whether in case a habeas corpus be brought, and a warrant from the King without any general or special cause returned, the Judges ought to deliver him before they understand the cause from the King.

A. Upon a habeas corpus brought for one committed by the King, if the cause be not specially or generally returned, so as the Court may take knowledge thereof, the party ought by the general rule of law to be delivered. But if the case be such that the same requireth secrecy, and may not

presently be disclosed, the Court in discretion may forbear to deliver the prisoner for a convenient time, to the end the Court may be advertised of the truth thereof.

Q. Whether, if the King grant the Commons' Petition, he doth not thereby exclude himself from committing or restraining a subject for any time or cause whatsoever without showing a cause.

A. Every law, after it is made, hath its exposition, and so this petition and answer must have an exposition as the case in the nature thereof shall require to stand with justice ; which is to be left to the courts of justice to determine, which cannot particularly be discovered until such case shall happen. And although the petition be granted, there is no fear of conclusion as is intimated in the question.

Act for the Abolition of the Court of Star Chamber (17 Charles I. c. 10), 1641

. . . And forasmuch as the Council Table hath of late times assumed unto itself a power to intermeddle in civil causes and matters only of private interest between party and party, and have adventured to determine of the estates and liberties of the subject contrary to the law of the land and the rights and privileges of the subject . . . Be it . . . enacted . . . That neither his

Majesty nor his Privy Council have or ought to have any jurisdiction, power or authority by English bill, petition, articles, libel, or any other arbitrary way whatsoever, to examine or draw into question, determine or dispose of the lands, tenements, hereditaments, goods or chattels of any the subjects of this kingdom, but that the same ought to be tried and determined in the ordinary Courts of Justice and by the ordinary course of the law.

. . . if any person shall hereafter be committed . . . by the command or warrant of the King's Majesty, his heirs or successors, in their own person, or by the command or warrant of the Council Board or of any of the Lords or others of his Majesty's Privy Council, That in every such case every person so committed . . . have forthwith granted unto him a writ of Habeas Corpus to be directed generally unto all and every . . . person in whose custody the party committed . . . shall be, and the . . . person . . . shall at the return of the writ and according to the command thereof . . . bring . . . the body of the said party . . . before the Judges . . . of the said Court from whence the same writ shall issue in open Court, and shall then likewise certify the true cause of such his . . . imprisonment, and thereupon the Court, within three court days after such return made . . . shall proceed to examine and determine whether the cause of such commitment . . . be just and legal or not, and shall thereupon do what to

justice shall appertain, either by delivering, bailing or remanding the prisoner.

The Habeas Corpus Amendment Act (31 Charles II. c. 2), 1679

An Act for the better securing the Liberty of the Subject, and for Prevention of Imprisonments beyond the Seas.

WHEREAS great delays have been used by sheriffs, gaolers, and other officers, to whose custody any of the King's subjects have been committed for criminal or supposed criminal matters, in making returns of writs of Habeas Corpus to them directed, by standing out an Alias and Pluries Habeas Corpus, and sometimes more, and by other shifts to avoid their yielding obedience to such writs, contrary to their duty and the known laws of the land, whereby many of the King's subjects have been, and hereafter may be long detained in prison, in such cases where by law they are bailable, to their great charges and vexation ;

II. For the prevention whereof, and the more speedy relief of all persons imprisoned for any such criminal or supposed criminal matters ; be it enacted etc. that whensoever any person or persons shall bring any Habeas Corpus directed unto any sheriff or sheriffs, gaoler, minister, or other person whatsoever, for any person in his or their

custody, and the said writ shall be served upon the said officer, or left at the gaol or prison with any of the under officers, under keepers or deputy of the said officers or keepers, that the said officer or officers etc. shall, within three days after the service thereof as aforesaid, (unless the commitment aforesaid were for treason or felony, plainly or specially expressed in the warrant of commitment), upon payment or tender of the charges of bringing the said prisoner, to be ascertained by the judge or court that awarded the same, and indorsed upon the same writ, not exceeding twelvepence per mile, and upon security given by his own bond to pay the charges of carrying back the prisoner, if he shall be remanded by the court or judge to which he shall be brought according to the true intent of this present Act, and that he will not make any escape by the way, make return of such writ; and bring, or cause to be brought, the body of the party so committed or restrained, unto or before the Lord Chancellor, or Lord Keeper of the Great Seal of England for the time being, or the judges or barons of the said court from whence the said writ shall issue, or unto or before such other person or persons before whom the said writ is made returnable, according to the command thereof; and shall then likewise certify the true causes of his detainer or imprisonment, unless the commitment of the said party be in any place beyond the distance of twenty miles, from the place or places where such

court or person is or shall be residing ; and if beyond the distance of twenty miles, and not above one hundred miles, then within the space of ten days, and if beyond the distance of one hundred miles, then within the space of twenty days, after such delivery aforesaid, and not longer.

III. And to the intent that no sheriff, gaoler, or other officer may pretend ignorance of the import of any such writ ; be it enacted . . . that all such writs shall be marked in this manner, *per statutum tricesimo primo Caroli secundi regis*, and shall be signed by the person that awards the same ; and if any person or persons shall be or stand committed or detained as aforesaid, for any crime, unless for felony or treason plainly expressed in the warrant of commitment, in the vacation time, and out of term, it shall and may be lawful to and for the person or persons so committed or detained (other than persons convict or in execution by legal process) or any one on his or their behalf, to appeal or complain to the Lord Chancellor or Lord Keeper, or any one of his Majesty's Justices, either of the one bench or of the other, or the barons of the exchequer of the degree of the coif ; and the said Lord Chancellor etc. or any of them, upon view of the copy or copies of the warrant or warrants of commitment or detainer, or otherwise upon oath made that such copy or copies were denied to be given by such person or persons in whose custody the prisoner or prisoners is or are detained,

are hereby authorised and required, upon request made in writing by such person or persons, or any on his, her or their behalf, attested and subscribed by two witnesses who were present at the delivery of the same, to award and grant a Habeas Corpus under the seal of such court whereof he shall then be one of the judges, to be directed to the officer or officers in whose custody the party so committed or detained shall be ; returnable immediate before the said Lord Chancellor, or Lord Keeper, or such justice, baron, or any other justice or baron of the degree of the coif of any of the said courts ; and upon service thereof as aforesaid, the officer or officers etc. in whose custody the party is so committed or detained, shall, within the times respectively before limited, bring such prisoner or prisoners before the said Lord Chancellor or Lord Keeper, or such justices, barons or one of them, before whom the said writ is made returnable, and in case of his absence, before any other of them, with the return of such writ, and the true causes of the commitment and detainer ; and thereupon within two days after the party shall be brought before them, the said Lord Chancellor or Lord Keeper etc. shall discharge the said prisoner from his imprisonment, taking his or their recognizance, with one or more surety or sureties, in any sum according to their discretions, having regard to the quality of the prisoner and nature of the offence for his or their appearance in

the Court of King's Bench the term following, or at the next assizes, sessions or general gaol-delivery of and for such county, city or place where the commitment was, or where the offence was committed, or in such other court where the said offence is properly cognizable, as the case shall require, and then shall certify the said writ with the return thereof, and the said recognizance or recognizances into the said court where such appearance is to be made; unless it shall appear unto the said Lord Chancellor or Lord Keeper etc. that the party so committed is detained upon a legal process, order or warrant, out of some court that hath jurisdiction of criminal matters, or by some warrant signed and sealed with the hand and seal of any of the said justices or barons, or some justice or justices of the peace, for such matters or offences for the which by the law the prisoner is not bailable.

IV. Provided always, and be it enacted, that if any person shall have wilfully neglected by the space of two whole terms after his imprisonment to pray a Habeas Corpus for his enlargement, such person so wilfully neglecting shall not have any Habeas Corpus to be granted in vacation time in pursuance of this Act.

V. And be it further enacted by the authority aforesaid, that if any officer or officers etc. shall neglect or refuse to make the returns aforesaid, or to bring the body or bodies of the prisoner or prisoners

according to the command of the said writ, within the respective times aforesaid, or upon demand made by the prisoner or person in his behalf, shall refuse to deliver, or within the space of six hours after demand shall not deliver, to the person so demanding, a true copy of the warrant or warrants of commitment and detainer of such prisoner, which he and they are hereby required to deliver accordingly; all and every the head gaolers and keepers of such prisons, and such other persons in whose custody the prisoner shall be detained, shall for the first offence forfeit to the prisoner or party grieved the sum of one hundred pounds; and for the second offence the sum of two hundred pounds; and shall and is hereby made incapable to hold or execute his said office; the said penalties to be recovered by the prisoner or party grieved, his executors or administrators, against such offender, his executors or administrators, by any action of debt, suit, bill, plaint, or information in any of the King's Courts at Westminster, wherein no essoin, protection, privilege, injunction, wager of law or stay of prosecution by *Non vult alterius prosequi*, or otherwise, shall be admitted or allowed, or any more than one imparlance; and any recovery or judgment at the suit of any party grieved, shall be a sufficient conviction for the first offence; and any after recovery or judgment at the suit of a party grieved for any offence after the first judgment shall be a sufficient

conviction to bring the officers or persons within the said penalty for the second offence.

VI. And for the prevention of unjust vexation by reiterated commitments for the same offence ; be it enacted by the authority aforesaid, that no person or persons which shall be delivered or set at large upon any Habeas Corpus, shall at any time hereafter be again imprisoned or committed for the same offence by any person or persons whatsoever, other than by the legal order and process of such court wherein he or they shall be bound by recognizance to appear, or other court having jurisdiction of the cause ; and if any other person or persons shall knowingly, contrary to this Act, recommit or imprison, or knowingly procure or cause to be recommitted or imprisoned, for the same offence or pretended offence, any person or persons delivered or set at large as aforesaid, or be knowingly aiding or assisting therein, then he or they shall forfeit to the prisoner or party grieved the sum of five hundred pounds ; any colourable pretence or variation in the warrant or warrants of commitment, notwithstanding, to be recovered as aforesaid.

VII. . . . That if any person or persons shall be committed for high treason or felony, plainly and specially expressed in the warrant of commitment, upon his prayer or petition in open court the first week of the term, or the first day of the sessions of

Oyer and Terminer, or general gaol-delivery, to be brought to his trial, shall not be indicted some time in the next term, sessions of *Oyer and Terminer*, or general gaol-delivery, after such commitment; it shall and may be lawful to and for the Judges of the Court of King's Bench and Justices of *Oyer and Terminer*, or general gaol-delivery, and they are hereby required, upon motion to them made in open court the last day of the term, sessions, gaol-delivery, either by the prisoner or any one in his behalf, to set at liberty the prisoner upon bail, unless it appears to the Judges and Justices upon oath made, that the witnesses for the King could not be produced the same term, sessions, or general gaol-delivery; and if any person or persons committed as aforesaid, upon his prayer or petition in open court the first week of the term or first day of the sessions of *Oyer and Terminer* and general gaol-delivery, to be brought to his trial, shall not be indicted and tried the second term etc. after his commitment, or upon his trial shall be acquitted, he shall be discharged from his imprisonment.

VIII. . . . That nothing in this act shall extend to discharge out of prison any person charged in debt, or other action, or with process in any civil cause,¹ but that

Act 56 George III. c. 100 (1816)

. . . Where any person shall be confined or restrained of his or her liberty (otherwise than for some criminal or supposed criminal matter, and except persons imprisoned for debt or by process in any civil suit) . . . it shall and

after he shall be discharged of his imprisonment for such his criminal offence, he shall be kept in custody according to the law, for such other suit.

IX. . . . That if any person or persons, subjects of this realm, shall be committed to any prison, or in custody, of any officer or officers whatever for any criminal or supposed criminal matter, that the said person shall not be removed from the said prison and custody into the custody of any other officer or officers ; unless it be by Habeas Corpus or some other legal writ ; or where the prisoner is delivered to the constable or other inferior officer to carry such prisoner to some common gaol, or where any person is sent by order of any judge of assize or justice of the peace, to any common workhouse or house of correction ; or where the prisoner is removed from one prison or place to another within the same county, in order to his or her trial in discharge of due

may be lawful for any one of the Barons of the Exchequer of the degree of the coif, as well as for any one of the Justices of one Bench or the other ; . . . and they are hereby required, upon complaint made to them by or on the behalf of the person so confined or retained, if it shall appear by affidavit or affirmation . . . that there is a probable and reasonable ground for such complaint, to award in Vacation time, a Writ of *Habeas Corpus ad subjiciendum*, under the seal of such court, whereof he or they shall then be Judges or one of the Judges, to be directed to the person or persons in whose custody or power the party so confined and restrained shall be, returnable immediately before the person so awarding the same or before any other Judge of the Court under the Seal of which the said Writ issued.

course of law ; or in case of sudden fire or infection, or other necessity ; and if any person or persons shall, after such commitment aforesaid, make out and sign, or countersign any warrant or warrants for such removal aforesaid, contrary to this act ; as well he that makes or signs, or countersigns such warrant or warrants, as the officer or officers that obey or execute the same, shall suffer and incur the pains and forfeitures in this act before mentioned, both for the first and second offence respectively, to be recovered in manner aforesaid by the party aggrieved.

X. . . . That it shall and may be lawful to and for any prisoner or prisoners as aforesaid, to move and obtain his or their Habeas Corpus, as well out of the High Court of Chancery or Court of Exchequer, as out of the Courts of King's Bench or Common Pleas, or either of them ; and if the said Lord Chancellor or Lord Keeper, or any judge or judges, baron or barons for the time being of the degree of the coif, or any of the courts aforesaid, in the vacation time, upon view of the copy or copies of the warrant or warrants of commitment or detainer, or upon oath made that such copy or copies were denied as aforesaid, shall deny any writ of Habeas Corpus, by this act required to be granted, being moved for as aforesaid, they shall severally forfeit to the prisoner or party grieved the sum of five hundred pounds, to be recovered in manner aforesaid.

XI. . . . That an Habeas Corpus, according to the true intent and meaning of this act, may be directed and run into any county palatine, the cinque ports, or other privileged places within the Kingdom of England, dominion of Wales, or town of Berwick-upon-Tweed, and the Islands of Jersey and Guernsey ; any law or usage to the contrary notwithstanding.

XII. And for preventing illegal imprisonments in prisons beyond the seas,¹ be it further enacted by the authority aforesaid, that no subjects of this realm that now is, or hereafter shall be an inhabitant or resident of this Kingdom of England, dominion of Wales, or town of Berwick-upon-Tweed, shall or may be sent prisoner into Scotland, Ireland, Jersey, Guernsey, Tangier, or into other ports, garrisons, islands, or places beyond the seas, which are or at any time hereafter shall be within or without the dominions of his Majesty, his heirs, or successors ; and that every such imprisonment is hereby enacted and adjudged to be illegal ; and that if any of the said subjects

¹ *Articles of Treason exhibited in Parliament against Edward Earl of Clarendon (1667)*

IV. That he hath advised and procured divers of his Majesty's subjects to be imprisoned against law, in remote islands, garrisons, and other places thereby to prevent them from the benefit of the law ; and to introduce precedents for imprisoning of other of his Majesty's subjects in like manner.

IX. That he introduced an arbitrary government in his Majesty's foreign plantations ; and hath caused such as complained thereof, before his Majesty and Council, to be long-imprisoned for so doing.

now is or hereafter shall be so imprisoned, every such person or persons so imprisoned, shall and may, for every such imprisonment, maintain by virtue of this act an action or actions of false imprisonment, in any of his Majesty's courts of record, against the person or persons by whom he or she shall be so committed, detained, imprisoned, sent prisoner or transported, contrary to the true meaning of this act, and against all and any person or persons that shall frame, contrive, write, seal, or countersign any warrant or writing for such commitment, detainer, imprisonment, or transportation, or shall be advising, aiding or assisting in the same, or any of them ; and the plaintiff in every such action shall have judgment to recover his treble costs, besides damages, which damages so to be given shall not be less than five hundred pounds ; in which action, no delay, stay, or stop of proceeding by rule, order or command, nor no injunction, protection, or privilege whatsoever, nor any more than one imparlance, shall be allowed, excepting such rule of the court wherein the action shall depend, made in open court, as shall be thought in justice necessary, for special cause to be expressed in the said rule ; and the person or persons who shall knowingly frame, contrive, write, seal or countersign any warrant for such commitment etc. or shall so commit etc. any person or persons contrary to this act, or be any ways advising, aiding, or assisting therein, being lawfully convicted, thereof

shall be disabled from thenceforth to bear any office of trust or profit within the said realm of England etc. or any of the islands, territories or dominions thereunto belonging; and shall incur and sustain the pains, penalties, and forfeitures, limited, ordained and provided, in and by the Statute of Provision and Praemunire made in the sixteenth year of King Richard the Second; and be incapable of any pardon from the King, his heirs or successors, of the said forfeitures, losses or disabilities, or any of them.

XIII. (The benefit of the Act is refused to any one contracting for his own transportation in return for payment.)

XIV. (Despite this Act, any one convicted of felony and condemned to imprisonment, may at his own request be transported.)

XV. (This Act is not to affect any one imprisoned or any act done before June 1, 1679.)

XVI. (Any one residing in England etc. who commits a capital offence in Scotland, Ireland or any island or foreign plantation of the Crown, may be sent for trial in the manner hitherto usual, to the place where the offence was committed.)

XVII. (Ordinarily the grieved party may prosecute under this Act only within two years.)

XVIII. (In order that no one may avoid his trial by getting himself removed so that he cannot be brought back in time for the assizes, after the Assizes are proclaimed for that county no one shall be removed from

the gaol upon any Habeas Corpus granted under this Act, but shall be brought before the judge of assize in open court, who shall do what justice demands.)

XIX. (After the Assizes are ended, any one detained may have the benefit of the Act.)

* * * * *

XXI. (Persons committed on suspicion of petty treason or felony, which charge is expressed in the warrant, cannot claim the benefit of this Act.)

XIII

THE BILL OF RIGHTS, 1689

I William and Mary, Sess. 2, c. 2

*An Act declaring the Rights and Liberties
the Subject, and settling the Succession of the
Crown.*

WHEREAS the Lords Spiritual and Temporal and Commons assembled at Westminster lawfully, fully and freely representing all the Estates of the people of this realm, did, upon the thirteenth day of February, in the year of our Lord one thousand six hundred eighty-eight, present unto their Majesties, then called and known by the names and style of William and Mary, Prince and Princess of Orange, being present in their proper persons, a certain declaration in writing made by the said Lords and Commons, in the words following; viz. :—

Whereas the late King James II, by the

assistance of divers evil counsellors, judges and ministers employed by him, did endeavour to subvert and extirpate the Protestant religion, and the laws and liberties of this Kingdom :—

By assuming and exercising a power of dispensing with and suspending of laws, and the execution of laws, without consent of Parliament.

By committing and prosecuting divers worthy prelates, for humbly petitioning to be excused from concurring to the said assumed power.

By issuing and causing to be executed a Commission under the Great Seal for erecting a Court called the Court of Commissioners for Ecclesiastical Causes.

By levying money for and to the use of the Crown, by pretence of prerogative, for other time and in other manner than the same was granted by Parliament.

By raising and keeping a standing army within this kingdom in time of peace without consent of Parliament, and quartering soldiers contrary to law.

By causing several good subjects being Protestants, to be disarmed, at the same time, when Papists were both armed and employed contrary to law.

By violating the freedom of election of members to serve in Parliament.

By prosecutions in the Court of King's Bench for matters and causes cognizable only in Parliament; and by divers other arbitrary and illegal courses.

And whereas of late years, partial, corrupt, and unqualified persons have been returned and served on juries in trials, and particularly divers persons in trials for high treason, which were not freeholders.

And excessive bail hath been required of persons committed in criminal cases to elude the benefit of the laws made for the liberty of the subjects.

And excessive fines have been imposed.

And illegal and cruel punishments inflicted.

And several grants and promises made of fines or forfeitures before any conviction or judgment against the persons upon whom the same were to be levied.

All which are utterly and directly contrary to the known laws and statutes and freedom of this realm.

And whereas the said late King James II. having abdicated the government, and the throne being thereby vacant, his Highness the Prince of Orange (whom it hath pleased Almighty God to make the glorious instrument of delivering this kingdom from popery and arbitrary power) did (by the advice of the Lords Spiritual and Temporal and diverse principal persons of the Commons) cause letters to be written to the Lords Spiritual and Temporal being Protestants, and other letters to the several counties, cities, universities, boroughs, and cinque ports for the choosing of such persons to represent them as were of right to be sent to Parliament to meet' and sit at

Westminster upon the two and twentieth day of January in the year one thousand six hundred eighty and eight in order to such an establishment as that their religion, laws and liberties might not again be in danger of being subverted ; upon which letters elections have been accordingly made.

16⁸⁸
89.

And thereupon the said Lords Spiritual and Temporal and Commons pursuant to their respective letters and elections being now assembled in a full and free representation of this nation, taking into their most serious consideration the best means for attaining the ends aforesaid, do in the first place (as their ancestors in like case have usually done) for the vindicating and asserting their ancient rights and liberties, declare :—

That the pretended power of suspending of laws or the execution of laws by regal authority without consent of Parliament,¹ is illegal.

¹ *The Declaration of Indulgence, 1687*

His Majesty's gracious declaration to all his loving subjects for liberty of conscience.

It having pleased Almighty God not only to bring us to the imperial crown of these Kingdoms through the greatest difficulties, but to preserve us by a more than ordinary providence upon the throne of our royal ancestors, there is nothing now that we so earnestly desire as to establish our government on such a foundation as may make our subjects happy, and unite them to us by inclination as well as duty. Which we think can be done by no means so effectually as by granting to them the free exercise of their religion for the time to come, and add that to the perfect enjoyment of their property, which has never been in any case invaded by us

That the pretended power of dispensing with laws or the execution of laws by regal

since our coming to the crown. Which being the two things men value most, shall ever be preserved in these kingdoms, during our reign over them, as the truest methods of their peace and our glory. We cannot but heartily wish, as it will easily be believed, that all the people of our dominions were members of the Catholic Church ; yet we humbly thank Almighty God, it is and has of long time been our constant sense and opinion (which upon divers occasions we have declared) that conscience ought not to be constrained nor people forced in matters of mere religion : it has ever been directly contrary to our inclination, as we think it is to the interest of government, which it destroys by spoiling trade, depopulating countries and discouraging strangers, and finally, that it never obtained the end for which it was employed. And in this we are the more confirmed by the reflections we have made upon the conduct of the four last reigns. For after all the frequent and pressing endeavours that were used in each of them to reduce this kingdom to an exact conformity in religion, it is visible the success has not answered the design, and that the difficulty is invincible.

We therefore out of our princely care and affection unto all our loving subjects, that they may live at ease and quiet, and for the increase of trade and encouragement of strangers, have thought fit by virtue of our royal prerogative to issue forth this our declaration of indulgence, making no doubt of the concurrence of our two Houses of Parliament when we shall think it convenient for them to meet.

In the first place, we do declare that we will protect and maintain our archbishops, bishops, and clergy, and all other our subjects of the Church of England in the free exercise of their religion as by law established, and in the quiet and full enjoyment of all their possessions, without any molestation or disturbance whatsoever.

We do likewise declare, that it is our royal will and pleasure that from henceforth the execution of all and all manner of penal laws, in matters ecclesiastical, for not coming to church, or not receiving the Sacrament, or for any other nonconformity to the religion established, or

authority, as it hath been assumed and exercised of late, is illegal.

for or by reason of the exercise of religion in any manner whatsoever, be immediately suspended ; and the further execution of the said penal laws and every of them is hereby suspended. And to the end that by the liberty hereby granted the peace and security of our government in the practice thereof may not be endangered, we have thought fit, and do hereby straitly charge and command all our loving subjects, that—as we do freely give them leave to meet and serve God after their own way and manner, be it in private houses or places purposely hired or built for that use, so that they take especial care that nothing be preached or taught amongst them, which may any way tend to alienate the hearts of our people from us or our government, and that their meetings and assemblies be peaceably, openly, and publicly held and all persons freely admitted to them, and that they do signify and make known to some one or more of the next justices of the peace what place or places they set apart for those uses, and that all our subjects may enjoy such their religious assemblies with greater assurance and protection—we have thought it requisite, and do hereby command, that no disturbance of any kind be made or given unto them, under pain of our displeasure, and to be further proceeded against with the utmost severity.

And forasmuch as we are desirous to have the benefit of the service of all our living subjects, which by the law of nature is inseparably annexed to and inherent in our royal person, and that none of our subjects may for the future be under any discouragement or disability (who are otherwise well inclined and fit to serve us) by reason of some oaths or tests that have been usually administered on such occasions, we do hereby further declare, that it is our royal will and pleasure that the oaths commonly called "the oaths of supremacy and allegiance," and also the several tests and declarations mentioned in the Acts of Parliament made in the five and twentieth and thirtieth years of the reign of our late royal brother, King Charles II. shall not at any time hereafter be required to be taken, declared, or subscribed by any person or persons whatsoever, who is or shall be employed in any office or place of trust, either civil or military, under us or in our

That the Commission for erecting the late Court of Commissioners for Ecclesiastical Causes and all other Commissions and

government. And we do further declare it to be our pleasure and intention from time to time hereafter, to grant our royal dispensations under our great seal to all our loving subjects so to be employed, who shall not take the said oaths, or subscribe or declare the said tests or declarations in the above-mentioned Acts and every of them.

And to the end that all our loving subjects may receive and enjoy the full benefit and advantage of our gracious indulgence hereby intended, and may be acquitted and discharged from all pains, penalties, forfeitures, and disabilities by them or any of them incurred or forfeited, or which they shall or may at any time hereafter be liable to, for or by reason of their nonconformity, or the exercise of their religion, and from all suits, troubles, and disturbances for the same ; we do hereby give our free and ample pardon unto all nonconformists, recusants, and other our loving subjects, for all crimes and things by them committed or done contrary to the penal laws, formerly made relating to religion, and the profession or exercise thereof ; hereby declaring that this our royal pardon and indemnity shall be as good and effectual to all intents and purposes, as if every individual person had been therein particularly named, or had particular pardon under our great seal, which we do likewise declare shall from time to time be granted unto any person or persons desiring the same : willing and requiring our judges, justices, and other officers to take notice of and obey our royal will and pleasure hereinbefore declared.

And although the freedom and assurance we have given in relation to religion and property might be sufficient to remove from the minds of our loving subjects all fears and jealousies in relation to either, yet we have thought fit further to declare that we will maintain them in all their properties and possessions, as well of church and abbey lands, as in any other their lands and properties whatsoever.

Given in our court at Whitehall the fourth day of April, 1687, in the third year of our reign.

Courts of like nature, are illegal and pernicious.¹

That levying money for or to the use of the Crown by pretence of prerogative without consent of Parliament for longer time or in other manner than the same is or shall be granted, is illegal.

That it is the right of the subjects to petition the King, and all commitments and prosecutions for such petitioning are illegal.

That the raising or keeping a standing army within the kingdom in time of peace unless it be with consent of Parliament, is against law.

That the subjects which are Protestants may have arms for their defence suitable to their conditions and as allowed by law.

That election of Members of Parliament ought to be free.

¹ *Act for the Abolition of the Court of High Commission*
(17 Charles I. c. 11), 1641

The Act recites the clause in 1 Eliz. c. 1 under which Courts of High Commission were established (see p. 241). This clause is declared repealed and the power of such Court is annulled with penalties on any one who offends against this Act. The Act concludes—

And be it further enacted that from and after the first day of August, no new court shall be erected, ordained, or appointed within this realm of England or dominion of Wales, which shall or may have the like power, jurisdiction, or authority as the said High Commission Court now has or pretends to have ; but that all and every such letters patent, commissions, and grants made or to be made by his Majesty, his heirs or successors, and all powers and authorities granted, or pretended or mentioned to be granted thereby, and all acts, sentences, and decrees, to be made by virtue or colour thereof, shall be utterly void and of none effect.

That the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament.

That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

That jurors ought to be duly impannelled and returned ; and jurors which pass upon men in trials for high treason, ought to be freeholders.

That all grants and promises of fines and forfeitures of particular persons before conviction, are illegal and void.

And that for redress of all grievances and for the amending, strengthening and preserving of the laws Parliament ought to be held frequently.¹

¹ 16 Charles II. c. i. (1664)

A Triennial Act. *An Act for the assembling and holding of Parliaments once in three years at the least ; and for the repeal of an Act, intituled, "An Act for the preventing of inconveniences happening by the long intermissions of Parliaments."*

16 Car I. c. I. Whereas an Act made in the Parliament begun at Westminster the third day of November, in the sixteenth year of the reign of our late sovereign lord King Charles, of blessed memory, intituled, "An Act for the preventing of inconveniences happening by the long intermissions of Parliaments," is in derogation of his Majesty's just rights and prerogative inherent to the imperial crown of this realm, for the calling and assembling of Parliaments, and may be an occasion of manifold mischiefs and inconveniences, and much endanger the peace and safety of his Majesty, and all his liege people of the realm :

II. Be it therefore enacted . . . That the said Act . . . and all and every the articles, clauses and things therein contained, . . . are hereby . . . declared to be null and

And they do claim, demand and insist upon all and singular the premises as their undoubted rights and liberties; and that no

void to all intents and purposes whatsoever, as if the said Act had never been had or made; anything in the said Act contained to the contrary in any wise notwithstanding.

III. And because by the ancient laws and statutes of this realm, made in the reign of King Edward the third, Parliaments are to be held very often; . . . be it declared and enacted . . . That hereafter the sitting and holding of Parliaments shall not be intermitted or discontinued above three years at the most; but that within three year from and after the determination of this present Parliament, and so from time to time within three years after the determination of any other Parliament or Parliaments, or if there be occasion more often, your Majesty, your heirs and successors, do issue out your writs for calling, assembling, and holding of another Parliament, to the end there may be a frequent calling, assembling, and holding of Parliaments once in three years at the least.

4 Edw. III. c. 14
36 Edw. III
Stat. 1 c. 10.

6 and 7 William and Mary, c. 2 (1695)

An Act for the frequent meeting and calling of Parliaments.

The Triennial Act.

I. Whereas by the ancient laws and statutes of this kingdom frequent Parliaments ought to be held, and whereas frequent and new Parliaments tend very much to the happy union and good agreement of king and people; We, your Majesties' most loyal and obedient subjects, the Lords Spiritual and Temporal and Commons in this present Parliament assembled, do most humbly beseech your most excellent Majesties that it may be declared and enacted in this present Parliament and it is hereby declared and enacted . . . That from henceforth a Parliament shall be holden once in three years at the least.

II. . . . That within three at the farthest from and after the dissolution of this present Parliament and so from time to time for ever hereafter within three years at the farthest from and after the determination of every other Parliament legal writs under the great seal shall be

declarations, judgments, doings or proceedings, to the prejudice of the people in any of the said premises, ought in any wise to

issued by directions of your Majesties, your heirs, and successors, for assembling and holding another new Parliament.

III. . . . That from henceforth no Parliament whatsoever that shall at any time hereafter be called, assembled, or held, shall have any continuance longer than for three years only at the farthest, to be accounted from the day on which by the writs of summons the said Parliament shall be appointed to meet.

* * * * *

1 Geo. I. stat. 2, c. 38 (1716).

The Septennial
Act.

An Act for enlarging the time and continuance of Parliaments, appointed by an Act made in the sixth year of the reign of King William and Queen Mary, intituled, An Act for the frequent meeting and calling of Parliament.

Whereas in and by an Act of Parliament (reciting 6 and 7 Will. and Mary c. 2, § 3): and whereas it hath been found by experience that the said clause hath proved very grievous and burthensome, by occasioning much greater and more continued expenses in order to elections of members to serve in Parliament, and more violent and lasting heats and animosities among the subjects of this realm, than were ever known before the said clause was enacted; and the said provision, if it should continue, may probably at this juncture, when a restless and popish faction are designing and endeavouring to renew the rebellion within this kingdom, and an invasion from abroad, be destructive to the peace and security of the government; Be it enacted . . . That this present Parliament, and all Parliaments that shall at any time hereafter be called, assembled, or held, shall and may respectively have continuance for seven years, and no longer, to be accounted from the day on which by the writ of summons this present Parliament hath been, or any future Parliament shall be appointed to meet, unless this present, or any such Parliament hereafter to be summoned, shall be sooner dissolved by his Majesty, his heirs or successors.

be drawn hereafter into consequence or example.

To which demand of their rights they are particularly encouraged by the declaration of his Highness the Prince of Orange, as being the only means for obtaining a full redress and remedy therein.

Having therefore an entire confidence that his said Highness the Prince of Orange will perfect the deliverance so far advanced by him, and will still preserve them from the violation of their rights which they have here asserted, and from all other attempts upon their religion, rights and liberties :

The said Lords Spiritual and Temporal and Commons assembled at Westminster, do resolve, that William and Mary, Prince and Princess of Orange, be and be declared King and Queen of England, France and Ireland and the dominions thereunto belonging, to hold the crown and royal dignity of the said Kingdoms and dominions to them the said Prince and Princess during their lives and the life of the survivor of them ; and that the sole and full exercise of the regal power be only in and executed by the said Prince of Orange in the names of the said Prince and Princess during their joint lives ; and after their deceases the said crown and regal dignity of the said kingdom and dominions to be to the heirs of the body of the said Princess ; and for default of such issue, to the Princess Anne of Denmark and the heirs of her body ; and for default of such issue, to the heirs of the body

of the said Prince of Orange. And the Lords Spiritual and Temporal and Commons do pray the said Prince and Princess to accept the same accordingly.

And that the Oaths hereafter mentioned be taken by all persons of whom the Oath of Allegiance and Supremacy¹ might be required by law, instead of them; and that

¹ *Act of Supremacy* (1 Eliz. c. 1) (p. 242)

3 and 4 James I. c. 4 (1606)

An Act for the better Discovering and Repressing of Popish Recusants,

provides, that every popish recusant convicted . . . which heretofore hath conformed him or herself, or which shall hereafter conform him or herself and repair to the Church and continue there during the time of divine service, according to the laws and statutes in that behalf made, shall, within the first year next after the end of this session of Parliament . . . and . . . once in every year following at the least, receive the blessed Sacrament of the Lord's Supper in the Church of that parish where he or she shall most usually abide. . . .

And for the better trial how his Majesty's subjects stand affected in point of their loyalty and due obedience . . . it shall be lawful for any bishop in his diocese or any two justices of the peace . . . to require any person of the age of eighteen years or above, which shall be convicted or indicted of or for any recusancy, other than noblemen or noblewomen, for not repairing to divine service according to the laws of this realm or which shall not have received the said sacrament . . . to take the oath hereafter following upon the Holy Evangelists. . . .

I A. B. do truly and sincerely acknowledge, profess, testify and declare in my conscience before God and the world, that our Sovereign Lord King James is lawful and rightful king of this realm and of all other his Majesty's dominions and countries, and that the pope neither of himself nor by any authority of the Church or See of Rome or by any other means with any other hath any power or authority to depose the King or to dispose any

the said Oaths of Allegiance and Supremacy be abrogated.

I, A. B., do sincerely promise and swear, that I will be faithful and bear true allegiance to their Majesties King William and Queen Mary. So help me God.

I, A. B., do swear, that I do from my heart abhor, detest and abjure as impious

of his Majesty's kingdoms or dominions, or to authorise any foreign prince to invade or annoy him or his countries, or to discharge any of his subjects of their allegiance and obedience to his Majesty, or to give licence or leave to any of them to bear arms, raise tumults or to offer any violence or hurt to his Majesty's royal person, state or government or to any of his Majesty's subjects within his Majesty's dominions.

Also I do swear from my heart, that notwithstanding any declaration or sentence of excommunication or deprivation made or granted by the Pope or his successors, or by any authority derived or pretended to be derived from him or his See against the said King, his heirs or successors, or any absolution of the said subjects from their obedience; I will bear faith and true allegiance to his Majesty, his heirs and successors, and him or them will defend to the uttermost of my power against all conspiracies and attempts whatsoever which shall be made against his or their persons, their crown and dignity, by reason or colour of any such sentence or declaration or otherwise, and will do my best endeavour to disclose and make known unto his Majesty, his heirs and successors, all treasons and traitorous conspiracies which I shall know or hear of, against him or any of them.

And I do further swear, that I do from my heart abhor, detest and abjure, as impious and heretical, this damnable doctrine and position, that princes which be excommunicated or deprived by the Pope, may be deposed or murdered by their subjects or any other whatsoever.

And I do believe, and in my conscience am resolved, that neither the Pope nor any person whatsoever hath power to absolve me of this oath or any part thereof, which I acknowledge by good and full authority to be,

and heretical, that damnable doctrine and position that princes excommunicated or deprived by the pope or any authority of the See of Rome, may be deposed or murdered by their subjects, or any other whatsoever. And I do declare, that no foreign prince, person, prelate, state or potentate, hath or ought to have any jurisdiction,

lawfully administered unto me, and do renounce all pardons and dispensations to the contrary.

And all these things I do plainly and sincerely acknowledge and swear, according to these express words by me spoken, and according to the plain and common sense and understanding of the same words, without any equivocation or mental evasion or secret reservation whatsoever; And I do make this recognition and acknowledgment heartily, willingly, and truly, upon the true faith of a Christian: so help me God.

Unto which oath so taken, the said person shall subscribe his or her name or mark.

13 and 14 Charles II. c. 3 (1662)

An Act for Ordering the Forces in the Several Counties of this Kingdom.

Forasmuch as within all his Majesty's realms and dominions the sole and supreme power, government, command and disposition of the militia, and of all forces by sea and land, and of all forts and places of strength is, and by the laws of England ever was, the undoubted right of his Majesty and his royal predecessors, Kings and Queens of England; and that both or either of the Houses of Parliament cannot nor ought to pretend to the same; nor can nor lawfully may raise or levy any war, offensive or defensive, against his Majesty, his heirs and lawful successors . . .

(The King can issue Commissions of Lieutenancy to such persons as he pleases, who shall raise the militia, nominate the officers, and recommend Deputy-Lieutenants.)

Provided also, That no person being a Peer of this Realm shall be capable of acting or serving as Lieutenant or Deputy-Lieutenant by virtue of this Act, unless he or

power, superiority, pre-eminence or authority ecclesiastical or spiritual within this realm : So help me God.

Upon which their said Majesties did accept the crown and royal dignity of the Kingdoms of England, France and Ireland and the dominions thereunto belonging, according to the resolution and desire of the

they shall first before six of the Lords of His Majesty's Privy Council . . . take the Oaths of Allegiance and Supremacy, and also this Oath following :

I *A. B.* do declare and believe that it is not lawful upon any pretence whatsoever to take arms against the King ; and that I do abhor that traitorous position, that arms may be taken by his authority against his person or against those that are commissioned by him in pursuance of such military commission. So help me God.

Which oaths they have hereby power to administer.

And that no person being under the degree of a peer of this realm shall be capable of acting as Lieutenant, Deputy-Lieutenant, officer or soldier, by virtue of this Act, unless he or they *have taken the same oaths.*

13 and 14 Charles II. c. 4 (1662)

And be it further enacted . . . That every Dean, Canon and Prebendary of every Cathedral or Collegiate Church, and all Masters and other Heads, Fellows, Chaplains and Tutors of or in any College, Hall, House of Learning or Hospital, and every public Professor and Reader in either of the Universities and in every College elsewhere, and every Parson, Vicar, Curate, Lecturer, and every person in Holy Orders, and every schoolmaster keeping any public or private school, and every person, instructing or teaching any youth in any house or private family as tutor or schoolmaster . . . shall before [St. Bartholomew's Day, 1662] or at or before his or their respective admission . . . subscribe the declaration or acknowledgment following, *scilicet*—

The Act of Uniformity.

The declaration demanded by 13 and 14 Car. II. c. 3 with the following additions—and that I will conform to the Liturgy of the Church of England, as it is now by law

said Lords and Commons contained in the said declaration.

And thereupon their Majesties were pleased that the said Lords Spiritual and Temporal and Commons, being the two Houses of Parliament, should continue to sit, and with their Majesties' royal concurrence make effectual provision for the settlement of the religion, laws and liberties of this Kingdom, so that the same for the future might not be in danger again of being subverted ; to which the said Lords

established : And I do declare that I do hold, there lies no obligation upon me or any other person, from the oath commonly called the Solemn League and Covenant, to endeavour any change or alteration of government either in Church or State ; and that the same was in itself an unlawful oath, and imposed upon the subjects of this realm against the known laws and liberties of this kingdom.

[A subsequent section of the Act provides that so much of this declaration as is concerned with the repudiation of the Solemn League and Covenant shall be omitted from and after March 25, 1682.]

1 *William and Mary, c. 8* (1689)

An Act for the abrogating of the Oaths of Supremacy and Allegiance, and appointing other Oaths.

Declares "hereby repealed, utterly abrogated and made void" the Oaths of Supremacy appointed by 1 Eliz. c. 1, the Oath of Allegiance appointed by 3 Jac. I. c. 4, and the declaration appointed by 13 and 14 Car. II. c. 3 and repeated with additions in 13 and 14 Car. II. c. 4. It continues—

And be it enacted, That the Oaths that are intended and required to be taken by this Act, are the Oaths in these express words hereafter following.

[The two Oaths then prescribed are those afterwards inserted in the Bill of Rights.]

Spiritual and Temporal and Commons did agree and proceed to act accordingly.

NOW, in pursuance of the premises, the said Lords Spiritual and Temporal and Commons in Parliament assembled, for the ratifying, confirming and establishing the said declaration and the articles, clauses, matters and things therein contained, by the force of a law made in due form by authority of Parliament, do pray that it may be declared and enacted, that all and singular the rights and liberties asserted and claimed in the said Declaration, are the true, ancient and indubitable rights and liberties of the people of this Kingdom, and so shall be esteemed, allowed, adjudged, deemed and taken to be, and that all and every the particulars aforesaid shall be firmly and strictly holden and observed as they are expressed in the said Declaration ; and all officers and ministers whatsoever shall serve their Majesties and their successors according to the same in all times to come.

And the said Lords Spiritual and Temporal and Commons seriously considering how it hath pleased Almighty God in His marvellous providence and merciful goodness to this nation to provide and preserve their said Majesties' royal persons most happily to reign over us upon the throne of their ancestors, for which they render unto Him from the bottom of their hearts their humblest thanks and praises, do truly, firmly and assuredly, and in the sincerity of their hearts, think and do hereby recog-

nise, acknowledge and declare, that King James II. having abdicated the government, and their Majesties having accepted the crown and royal dignities as aforesaid, their said Majesties did become, were, are and of right ought to be by the laws of this realm, our Sovereign liege Lord and Lady, King and Queen of England, France and Ireland, and the dominions thereunto belonging, in and to whose princely persons the royal state, crown and dignity of the said realms, with all honours, styles, titles, regalities, prerogatives, powers, jurisdictions and authorities to the same belonging and appertaining, are most fully, rightfully and entirely invested and incorporated, united and annexed.

And for preventing all questions and divisions in this realm, by reason of any pretended titles to the crown, and for preserving a certainty in the succession thereof, in and upon which the unity, peace, tranquillity and safety of this nation doth, under God, wholly consist and depend, the said Lords Spiritual and Temporal and Commons do beseech their Majesties that it may be enacted, established and declared that the crown and regal government of the said Kingdoms and dominions with all and singular the premises thereunto belonging and appertaining, shall be and continue to their said Majesties and the survivor of them, during their lives and the life of the survivor of them. And that the entire, perfect and full exercise of the regal power and government be only

in and executed by his Majesty, in the names of both their Majesties during their joint lives ; and after their deceases the said crown and premises shall be and remain to the heirs of the body of his Majesty ; and for default of such issue, to her Royal Highness the Princess Anne of Denmark and the heirs of her body ; and for default of such issue, to the heirs of the body of his said Majesty ; and thereunto the said Lords Spiritual and Temporal and Commons do, in the name of all the people aforesaid, most humbly and faithfully submit themselves, their heirs and posterities, for ever ; and do faithfully promise that they will stand to, maintain and defend their said Majesties, and also the limitation and succession of the Crown herein specified and contained, to the utmost of their powers, with their lives and estates, against all persons whatsoever that shall attempt anything to the contrary.

And whereas it hath been found by experience that it is inconsistent with the safety and welfare of this Protestant Kingdom to be governed by a popish prince or by any king or queen marrying a papist, the said Lords Spiritual and Temporal and Commons do further pray that it may be enacted, that all and every person and persons that is, are or shall be reconciled to, or shall hold communion with, the See or Church of Rome, or shall profess the popish religion, or shall marry a papist, shall be excluded and be for ever incapable to in-

herit, possess or enjoy the crown and government of this realm and Ireland and the dominions thereunto belonging or any part of the same, or to have, use or exercise any regal power, authority or jurisdiction within the same ; and in all or every such case or cases the people of these realms shall be and are hereby absolved of their allegiance ; and the said crown and government shall from time to time descend to, and be enjoyed by, such person or persons, being Protestants, as should have inherited and enjoyed the same, in case the said person or persons, so reconciled, holding communion or professing or marrying, as aforesaid, were naturally dead.

And that every king and queen of this realm, who, at any time hereafter shall come to or succeed in the Imperial Crown of this Kingdom, shall, on the first day of the meeting of the first Parliament, next after his or her coming to the Crown, sitting on his or her throne in the House of Peers, in the presence of the Lords and Commons therein assembled, or at his or her coronation, before such person or persons who shall administer the coronation oath¹ to him or her, at the time of his or her taking the said oath (which shall first happen), make, subscribe, and audibly repeat the declaration men-

¹ *An Act for establishing the Coronation Oath* (1 Will. and Mary, c. 6), 1689, prescribed the following form of administration :—

Archbishop. Will you solemnly promise and swear to govern the people of this Kingdom of Great Britain and the dominions thereunto belonging according to the

tioned in the statute made in the thirtieth year of the reign of King Charles II., intituled "An Act for the more effectual preserving the King's Person and Government by disabling Papists from sitting in either House of Parliament."¹ But if it shall

statutes in Parliament agreed on, and the respective laws and customs of the same?

King. I solemnly promise so to do.

Abp. Will you to your power cause law and justice in mercy to be executed in all your judgments?

King. I will.

Abp. Will you to the utmost of your power maintain the laws of God, the true profession of the Gospel, and the Protestant reformed religion established by law. And will you maintain and preserve inviolately the settlement of the Church of England and Ireland, and the doctrine, worship, discipline and government thereof as by law established, within the Kingdoms of England and Ireland, the dominion of Wales, and the town of Berwick-upon-Tweed, and the territories thereto belonging. And will you preserve unto the bishops and clergy of England, and to the churches there committed to their charge, all such rights and privileges as by law do or shall appertain unto them or any of them?

King. All this I promise to do.

The things which I have here before promised I will perform and keep, so help me God.

¹ *The Declaration against Transubstantiation* (30 Car. II. stat. 2, c. 1), 1678

I A. B. do solemnly and sincerely in the presence of God profess, testify and declare, that I do believe that in the sacrament of the Lord's Supper there is not any transubstantiation of the elements of bread and wine into the body and blood of Christ at or after the consecration thereof by any person whatsoever; and that the invocation or adoration of the Virgin Mary or any other saint, and the sacrifice of the Mass as they are now used in the Church of Rome are superstitious and idolatrous, and I do solemnly in the presence of God profess, testify and declare, that I do make this declaration and every

happen that such king or queen, upon his or her succession to the crown of this realm, shall be under the age of twelve years, then every such king or queen shall make, subscribe, and audibly repeat the said declaration at his or her coronation, on the first day of meeting of the first Parliament as aforesaid, which shall first happen after such king or queen shall have attained the said age of twelve years.

All which their Majesties are contented and pleased shall be declared, enacted and established by authority of this present Parliament, and shall stand, remain and be the law of this realm for ever ; and the same are by their said Majesties, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in Parliament assembled, and by the authority of the same, declared, enacted and established accordingly.

And be it further declared and enacted by the authority aforesaid, that from and after this present session of Parliament, no

part thereof in the plain and ordinary sense of the words read unto me as they are commonly understood by English Protestants without any evasion, equivocation or mental reservation whatsoever and without any dispensation already granted me for this purpose by the Pope or any other authority or person whatsoever, or without any hope of any such dispensation from any person or authority whatsoever or without thinking that I am or can be acquitted before God or man or absolved of this declaration or any part thereof, although the Pope or any other person or persons or power whatsoever should dispense with or annul the same, or declare that it was null and void from the beginning.

dispensation by *non obstante* of or to any statute, or any part thereof, shall be allowed, but that the same shall be held void and of no effect, except a dispensation be allowed of in such statute, and except in such cases as shall be specially provided for by one or more Bill or Bills to be passed during this present session of Parliament.

Provided that no charter or grant or pardon granted before the three and twentieth day of October in the year of our Lord one thousand six hundred and eighty-nine, shall be any ways impeached or invalidated by this Act, but that the same shall be and remain of the same force and effect in law and no other, than as if this Act had never been made.

XIV

THE ACT OF SETTLEMENT
(1700)

12 and 13 William III. c. 2

*An Act for the further Limitation of the Crown
and better securing the Rights and Liberties of
the Subject*

P. 286. **W**HEREAS in the first year of the reign of your Majesty and of our late most gracious Sovereign Lady Queen Mary (of blessed memory) an Act of Parliament was made, intituled, "An Act for Declaring the Rights and Liberties of the Subject, and for settling the Succession of the Crown," wherein it was (amongst other things) enacted, established and declared, that the Crown and regal government of the Kingdoms of England, France and Ireland, and the dominions thereunto belonging, should be and continue to your Majesty and the said late Queen during

the joint lives of your Majesty and the said Queen, and to the survivor : And that after the decease of your Majesty and of the said Queen the said crown and regal government should be and remain to the heirs of the body of the said late Queen : and for default of such issue, to her Royal Highness the Princess Anne of Denmark and the heirs of her body : and for default of such issue, to the heirs of the body of your Majesty : And it was thereby further enacted, That all and every person and persons that then were or afterwards should be reconciled to or shall hold communion with the See or Church of Rome, or should profess the popish religion or marry a papist, should be excluded, and are by that Act made for ever incapable to inherit, possess or enjoy the crown and government of this realm and Ireland and the dominions thereunto belonging or any part of the same, or to have, use or exercise any regal power, authority or jurisdiction within the same : And in all and every such case and cases the people of these realms shall be and are thereby absolved of their allegiance : and that the said crown and government shall from time to time descend to and be enjoyed by such person or persons, being Protestants, as should have inherited and enjoyed the same in case the said person or persons so reconciled, holding communion, professing or marrying as aforesaid, were naturally dead.

After the making of which statute and the settlement therein contained, your Majesty's good subjects who were restored to the full and free possession and enjoyment of their religion, rights and liberties by the providence of God giving success to your Majesty's just undertaking and unwearied endeavours for that purpose, had no greater temporal felicity to hope or wish for than to see a royal progeny descending from your Majesty to whom (under God) they owe their tranquillity, and whose ancestors have for many years been principal assertors of the reformed religion and the liberties of Europe, and from our said most gracious Sovereign Lady, whose memory will always be precious to the subjects of these realms : And it having since pleased Almighty God to take away our said Sovereign Lady, and also the most hopeful Prince William Duke of Gloucester (the only surviving issue of her Royal Highness the Princess Anne of Denmark) to the unspeakable grief and sorrow of your Majesty and your said good subjects, who under such losses being sensibly put in mind that it standeth wholly in the pleasure of Almighty God to prolong the lives of your Majesty and of her Royal Highness, and to grant to your Majesty or to her Royal Highness such issue as may be inheritable to the crown and regal government aforesaid, by the respective limitations in the said recited Act contained, do constantly implore the

Divine mercy for those blessings: And your Majesty's said subjects having daily experience of your royal care and concern for the present and future welfare of these Kingdoms, and particularly recommending from your throne a further provision to be made for 'the succession of the crown in the Protestant line for the happiness of the nation and the security of our religion: and it being absolutely necessary for the safety, peace and quiet of this realm, to obviate all doubts and contentions in the same by reason of any pretended titles to the crown, and to maintain a certainty in the succession thereof to which your subjects may safely have recourse for their protection in case the limitations in the said recited Act should determine: Therefore for a further provision of the succession of the crown in the Protestant line, we, your Majesty's most dutiful and loyal subjects, the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, do beseech your Majesty that it may be enacted and declared, and be it enacted and declared by the King's most excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That the most excellent Princess Sophia, Electress and Duchess Dowager of Hanover, daughter of the most excellent Princess Elizabeth, late Queen of Bohemia, daughter of our late Sovereign Lord, King

James I. of happy memory, be and is hereby declared to be the next in succession in the Protestant line to the Imperial Crown and dignity of the said realms of England, France and Ireland, with the dominions and territories thereunto belonging, after his Majesty and the Princess Anne of Denmark, and in default of issue of the said Princess Anne and of his Majesty respectively; and that from and after the deceases of his said Majesty our now Sovereign Lord, and of her Royal Highness Princess Anne of Denmark, and for default of issue of the said Princess Anne and his Majesty respectively, the crown and regal government of the said Kingdoms of England, France and Ireland, and of the dominions thereunto belonging, with the royal state and dignity of the said realms, and all honours, styles, titles, regalities, prerogatives, powers, jurisdictions and authorities, to the same belonging and appertaining, shall be, remain and continue to the said most excellent Princess Sophia and the heirs of her body, being Protestants; and thereunto the said Lords Spiritual and Temporal and Commons shall and will in the name of all the people of this realm most humbly and faithfully submit themselves, their heirs and posterities; and do faithfully promise that after the deceases of his Majesty and her Royal Highness, and the failure of the heirs of their respective bodies, to stand to, maintain and defend the said Princess

Sophia and the heirs of her body, being Protestants according to the limitation and succession of the Crown in this Act specified and contained, to the utmost of their powers, with their lives and estates, against all persons whatsoever that shall attempt anything to the contrary.

II. Provided always and it is hereby enacted, That all and every person and persons who shall or may take or inherit the said Crown by virtue of the limitation of this present Act, and is, or shall be reconciled to, or shall hold communion with the See or Church of Rome, or shall profess the popish religion, or shall marry a papist, shall be subject to such incapacities as in such case or cases are by the said recited Act provided, enacted and established ; and that every King and Queen of this realm who shall come to and succeed in the Imperial Crown of this Kingdom by virtue of this Act shall have the Coronation Oath administered to him, her or them at their respective coronations, according to the Act of Parliament made in the first year of the reign of his Majesty and the said late Queen Mary, intituled, "An Act for establishing the Coronation Oath," and shall make, subscribe and repeat the declaration in the Act first above recited, mentioned or referred to, in the manner and form thereby prescribed.

III. And whereas it is requisite and necessary that some further provision be made for securing our religion, laws and

liberties, from and after the death of his Majesty and the Princess Anne of Denmark, and in default of issue of the body of the said Princess and of his Majesty respectively : Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in Parliament assembled, and by the authority of the same :—

That whosoever shall hereafter come to the possession of this Crown shall join in communion with the Church of England as by law established.

That in case the Crown and the Imperial dignity of this realm shall hereafter come to any person not being a native of this Kingdom of England, this nation be not obliged to engage in any war for the defence of any dominions or territories which do not belong to the Crown of England, without the consent of Parliament.

That no person who shall hereafter come to the possession of this Crown shall go out of the dominions of England, Scotland or Ireland without consent of Parliament.¹

¹ 1 *Geo. I. stat. 2, c. 51* (1714) •

Whereas it has pleased Almighty God to place his Majesty on the throne of his ancestors, and further to bless these nations with a numerous progeny of his Majesty's royal family, and in particular with a prince endowed with all virtues and qualifications requisite to render posterity flourishing and happy : and whereas it is agreeable to the ancient constitution of these kingdoms that the person of the King or Queen should freely enjoy all and every the just and undoubted

FURTHER LIMITATIONS ENACTED 317

That from and after the time that the further limitation by this Act shall take effect, all matters and things relating to the well governing of this Kingdom, which are properly cognizable in the Privy Council by the laws and customs of this realm, shall be transacted there, and all resolutions taken thereupon shall be signed by such of the Privy Council as shall advise and consent to the same.¹

That after the said limitation shall take rights, liberties and privileges of the Crown: And whereas [reciting 12 and 13 Will. III. c. 2, § 3 (3)] which restriction may prove inconvenient with regard to the service of our Sovereign Lord the King (by God's mercy now possessed of the Crown) and of his heirs and successors:

Be it therefore enacted . . . That the Clause in the said recited Act contained, which provided and enacted, etc., and the restriction by the same clause meant or intended, are or shall be repealed, and shall for ever be and be deemed and taken to be void and of none effect; any thing in the said recited Act or in any other Act to the contrary notwithstanding.

4 and 5 Anne c. 20 (1705)

An Act for the better security of her Majesty's person and government and of the succession to the Crown of England in the Protestant line: The Place Act.

§ 2 recites the above clause and adds, That the said recited clause shall be and the same is hereby annulled and repealed as if the same Act had never been made.

§ 24. And whereas [recites 12 and 13 Will. III. c. 2, § 3] and adds: That the said last recited clause shall be and is hereby annulled and repealed as if the same Act had never been made.

§ 25. No person who shall have in his own name or in the name of any person or persons in trust for him, or for his benefit any new office or place of profit whatsoever under the Crown which at any time here-

effect as aforesaid, no person born out of the Kingdoms of England, Scotland or Ireland or the dominions thereunto belonging (although he be naturalised or made a denizen), except such as are born of English parents, shall be capable to be of the Privy Council, or a member of either

after shall be created or enacted, nor any person who shall be a Commissioner or Sub-Commissioner of prizes, Secretary or Receiver of the prizes, nor any Comptroller of the accounts of the Army, nor any Commissioners of transports, nor any Commissioners of the sick and wounded, nor any Agent for any regiment, nor any Commissioner for Wine Licences, nor any Governor or Deputy-Governor of any of the Plantations, nor any Commissioner of the Navy employed in any of the outposts, nor any person having any pension from the Crown during pleasure, shall be capable of being elected or of sitting or voting as a Member of the House of Commons in any Parliament which shall be hereafter summoned and holden.

§ 26. Provided always, That if any person being chosen a Member of the House of Commons shall at any time after the dissolution or determination of this present Parliament, accept of any office of profit from the Crown during such time as he shall continue a member, his election shall be and is hereby declared to be void, and a new writ shall issue for a new election as if such person so accepting was naturally dead, provided nevertheless that such person shall be capable of being again elected as if his place had not become void as aforesaid.

§ 27. Provided also . . . That in order to prevent for the future too great a number of Commissioners to be appointed or constituted for the executing of any office, that no greater number of Commissioners shall be made or constituted for the execution of any office than have been employed in the execution of such respective office at some time before the first day of this present Parliament.

§ 28. Provided also that nothing herein contained shall extend . . . to any Member of the House of

House of Parliament, or to enjoy any office or place of trust, either civil or military, or to have any grant of lands, tenements or hereditaments from the Crown to himself or to any other or others in trust for him.¹

That no person who has an office or

Commons being an officer in her Majesty's Navy or Army, who shall receive any new or other Commission in the Navy or Army respectively.

§ 29. . . . if any person hereby disabled or declared to be incapable to sit or vote in any Parliament hereafter to be holden, shall nevertheless be returned as a member to serve for any county, stewartry, city, town or cinque port in any such Parliament, such election and return are hereby . . . declared to be void to all intents and purposes whatsoever ; and if any person disabled or declared incapable . . . shall after the dissolution . . . of this present Parliament presume to sit or vote as a Member of the House of Commons in any Parliament . . . such person so sitting or voting shall forfeit the sum of five hundred pounds . . .

§ 30. . . . every person disabled to be elected . . . in the House of Commons of any Parliament of England, shall be disabled to be elected or to sit or vote in the House of Commons of any Parliament of Great Britain.

¹ 7 and 8 Victoria, c. 66 (1844)

An Act to amend the laws relating to Aliens.

§ 2. . . . That so much of the said Act [1 Geo. I, c. 4, confirming 12 and 13 Will. III. c. 2, § 3 (5)] as provides that no person shall hereafter be naturalised unless in the bill exhibited for that purpose there shall be a clause or particular words inserted to declare that such person shall not thereby be entitled to be of the Privy Council or a member of either House of Parliament, or to take any office, either civil or military, or to have any grant of lands, tenements, or hereditaments from the Crown to himself or any other person in trust for him, and that no bill of naturalisation shall hereafter be received in

Hutt's Naturalisation Act.

place of profit under the King, or receives a pension from the Crown, shall be capable

either House of Parliament unless such clause or words be first inserted, be repealed.

§ 3. . . . That every person now born, or hereafter to be born, out of her Majesty's dominions, of a mother being a natural-born subject of the United Kingdom, shall be capable of taking to him, his heirs, executors or administrators, any estate, real or personal, by devise or purchase, or inheritance of succession.

§ 5. . . . That every alien now residing in, or who shall hereafter come to reside in, any part of the United Kingdom, and being the subject of a friendly state, may, by grant, lease etc. take and hold any lands, houses or other tenements, for the purpose of residence or of occupation by him or her, or his or her servants, or for the purpose of any business, trade or manufacture, for any term of years not exceeding twenty-one years, as fully and effectually to all intents and purposes, and with the same rights, remedies, exemptions and privileges, except the right to vote at elections for Members of Parliament, as if he were a natural-born subject of the United Kingdom.

§ 6. . . . That upon obtaining the Certificate and taking the oath hereinafter prescribed, every alien now residing in or who shall hereafter come to reside in any part of Great Britain or Ireland with intent to settle therein, shall enjoy all the rights and capacities which a natural-born subject of the United Kingdom can enjoy or transmit, except that such alien shall not be capable of becoming of her Majesty's Privy Council, nor a Member of either House of Parliament, nor of enjoying such other rights and capacities, if any, as shall be specially excepted in and by the Certificate to be granted in manner hereinafter mentioned.

33 and 34 Vict. c. 14 (1870).

An Act to amend the law relating to the legal condition of Aliens and British subjects.

§ 2. Real and personal property of every description may be taken, acquired, held and disposed of by an alien in the same manner in all respects as by a

of serving as a member of the House of Commons.¹

That after the said limitations shall take effect as aforesaid, Judges' Commissions be made *quamdiu se bene gesserint* and their salaries ascertained and established; but upon the address of both Houses of Parliament, it may be lawful to remove them.²

natural-born British subject; and a title to real and personal property of every description may be derived through, from, and in succession to an alien, in the same manner in all respects as through, from, and in succession to a natural-born British subject: Provided, That this section . . . shall not qualify an alien for any office, or for any municipal, parliamentary or other franchise.

§ 7. An alien . . . who has resided in the United Kingdom for a term of not less than five years, or who has been in the service of the Crown for a term of not less than five years, and intends, when naturalised, either to reside in the United Kingdom, or to serve under the Crown, may apply to one of her Majesty's Principal Secretaries of State for a Certificate of Naturalisation.

* * * * *

An alien to whom a Certificate of Naturalisation is granted shall in the United Kingdom be entitled to all political and other rights, powers and privileges, and be subject to all obligations, to which a natural-born British subject is entitled . . .

§ 14. Nothing in this Act contained shall qualify an alien to be the owner of a British ship.

¹ *Vide* Act 4 and 5 Anne, c. 20, §§ 25-30, pp. 317-319.

*Speech of George III. to the Houses of Parliament
March 3, 1761*

My Lords and Gentlemen, Upon granting new Commissions to the Judges, the present state of their offices fell naturally under consideration. In consequence of the Act passed in the reign of my late glorious pre-

That no pardon under the Great Seal of England be pleadable to an impeachment by the Commons in Parliament.

IV. And whereas the laws of England are the birthright of the people thereof, and all the Kings and Queens who shall ascend the throne of this realm ought to administer the government of the same according to the said laws, and all their officers and ministers ought to serve them respectively according to the same; the said Lords Spiritual and Temporal and Commons do therefore further humbly pray, That all the laws and statutes of this realm for securing the Established Religion and the rights and liberties of the people thereof

decessor, King William the Third, for settling the succession of the Crown in my family, their Commissions have been made during their good behaviour; but notwithstanding that wise provision, their offices have determined upon the demise of the Crown, or at the expiration of six months afterwards, in every instance of that nature which has happened.

I look upon the independency and uprightness of the Judges of the land as essential to the impartial administration of justice, as one of the best securities to the rights and liberties of my loving subjects, and as most conducive to the honour of the Crown; and I come now to recommend this interesting object to the consideration of Parliament, in order that such further provision may be made, for securing the Judges in the engagement of their offices during their good behaviour, notwithstanding any such demise, as shall be most expedient.

Gentlemen of the House of Commons, I must desire you in particular, that I may be enabled to grant and establish upon the Judges such salaries as I shall think proper, so as to be absolutely secured to them during the continuance of their commission.

and all other laws and statutes of the same now in force, may be ratified and confirmed: And the same are by his Majesty, by and with the advice and consent of the said Lords Spiritual and Temporal and Commons, and by authority of the same, ratified and confirmed accordingly.

XV

THE UNION OF ENGLAND
AND SCOTLAND

**An Act for the Union of the two
Kingdoms of England and
Scotland**

6 *Anne*, C. 11, *March*, 1706-7

MOST GRACIOUS SOVEREIGN,—
Whereas Articles of Union were agreed on the twenty second day of July, in the fifth year of your Majesty's reign, by the Commissioners nominated on behalf of the Kingdom of England under your Majesty's Great Seal of England, bearing date at Westminster the tenth day of April, then last past, in pursuance of an Act of Parliament made in England in the third year of your Majesty's reign, and the Commissioners nominated on behalf of the Kingdom of Scotland, under your Majesty's Great Seal of Scotland, bearing date the twenty second day of February, in the fourth year of your

Majesty's reign in pursuance of the fourth Act of the third session of the present Parliament of Scotland, to treat of and concerning an union of the said Kingdoms.¹ And

¹ *Act for the Security of the Kingdom (Third Act of Session 1704).*

. . . And further, upon the said death of her Majesty without heirs of her body or a successor lawfully designed and appointed as above, or in the case of any other King or Queen thereafter succeeding and deceasing without lawful heir or successor, the foresaid estates of Parliament, convened or meeting, are hereby authorised and empowered to name, note, and declare the successor to the Imperial Crown of this Realm, and to settle the succession thereof upon the heirs of the successor's body ; The said successor and the heirs of the successor's body being always of the royal line of Scotland and of the true Protestant religion, provided always that the same be not successor to the Crown of England, unless that in this present session of Parliament or any other session of this or any ensuing Parliament during her Majesty's reign there be such conditions of government settled and enacted as may secure the honour and sovereignty of this Crown and Kingdom, the freedom, frequency, and power of Parliament, the religious liberty and trade of the nation from English or any foreign influence, with power to the said meeting of estates to add such further conditions of government as they shall think necessary, the same being consistent with and in no ways derogatory from those which shall be enacted in this and any other session of Parliament during her Majesty's reign : . . . It shall be high treason for any person or persons to administer the coronation oath or be witnesses to the administration thereof, but by the appointment of the Estates of Parliament in manner above mentioned, or to own or acknowledge any person as King or Queen, of this realm in the event of her Majesty's decease, leaving heirs of her own body, until they had sworn the coronation oath and accepted the Crown in the terms of the Claim of Right :

. . . In case of the death of her Majesty or of any succeeding King or Queen of the realm . . . the

whereas, an Act hath passed in the Parliament of Scotland, at Edinburgh, the sixteenth day of January, in the fifth year of your Majesty's reign, wherein 'tis mentioned that the Estates of Parliament considering the said Articles of Union of the two Kingdoms had agreed to and approved of the said Articles of Union with some additions and explanations, and that your Majesty with the advice and consent of the Estates of Parliament for establishing the Protestant Religion and Presbyterian Church government within the Kingdom of Scotland, had passed in the same session of Parliament an Act intituled "Act for securing of the Protestant Religion and Presbyterian Church government," which by the tenor thereof was

foresaid administration shall be in the hands of such of the members of the Estates of Parliament and such members of the Privy Council last in being as shall be in Edinburgh the time of the said death etc. . . .

And for a further security of the Kingdom, her Majesty with advice and consent foresaid, statutes and enacts, That the whole Protestant Heretors and all the Burghs within the same, shall forthwith provide themselves with firearms for all the fencible men who are Protestants within their respective bounds. . . . And the said Heretors and Burghs are hereby empowered and ordained to discipline and exercise their said fencible men once in the month at least, the said heretors always taking the oath of allegiance and assurance . . . Upon the decease of her Majesty etc. the Commissions of all officers of the standing forces above a captain shall become void and null . . . All officers and soldiers who shall happen to be on daily pay at the time of the decease foresaid to continue in or immediately repair to their respective garrisons and quarters and not to remove from thence but by order of the said Estates or Committee above mentioned, upon pain of treason.

appointed to be inserted in any Act ratifying the Treaty, and expressly declared to be a fundamental and essential condition of the said Treaty of Union in all times coming,^r the tenor of which Articles as ratified and approved of with additions and explanations by the said Act of Parliament of Scotland follows.

ARTICLE I

That the two Kingdoms of England and Scotland shall upon the first day of May which shall be in the year one thousand seven hundred and seven, and for ever after, be united into one Kingdom, by the name of Great Britain; and that the Ensigns Armorial of the said United Kingdom be such as her Majesty shall appoint, and the crosses of St. George and St. Andrew be conjoined in such manner as her Majesty shall think fit, and used in all Flags, Banners, Standards, and Ensigns, both at sea and land.

ARTICLE II

That the succession to the Monarchy of the United Kingdom of Great Britain and of the Dominions thereto belonging, after her most sacred Majesty and in default of issue of her Majesty, be, remain, and continue to the most Excellent Princess Sophia, Electress and Duchess Dowager of Hanover and the heirs of her body being Protestants, upon whom the Crown of England is settled by an Act of Parliament made in

England in the twelfth year of the reign of his late Majesty King William the Third, intituled *An Act for the further limitation of the Crown and better securing the rights and liberties of the Subject*.¹ And that all Papists and persons marrying Papists shall be excluded from and for ever incapable to inherit, possess, or enjoy the Imperial Crown of Great Britain and the Dominions thereunto belonging, or any part thereof; and in every such case the Crown and Government shall, from time to time, descend to and be enjoyed by such person being a Protestant as should have inherited and enjoyed the same in case such Papist or person marrying a Papist was naturally dead, according to the provision for the descent of the Crown of England, made by another Act of Parliament in England, in the first year of the reign of their late Majesties King William and Queen Mary, intituled *An Act declaring the rights and liberties of the Subject and settling the Succession of the Crown*.²

ARTICLE III

That the United Kingdom of Great Britain be represented by one and the same Parliament, to be styled the Parliament of Great Britain.

ARTICLE IV

That all the subjects of the United Kingdom of Great Britain shall from and after the

Union have full freedom and intercourse of trade and navigation to and from any port or place within the said United Kingdom and the Dominions and Plantations thereunto belonging, and that there be a communication of all other rights, privileges, and advantages which do or may belong to the subjects of either Kingdom, except where it is otherwise expressly agreed in these Articles.

ARTICLE V

(The ships of the subjects of Scotland to be deemed British built, the owner making oath that the ship did belong to him at the signing of this treaty, and that no foreigner has interest or share therein ; a duplicate of such certificate to be sent to Edinburgh and to London, to be entered in the general register of the trading ships of Great Britain.)

ARTICLE VI

(The same allowances, encouragements, and drawbacks, the same prohibitions, restrictions, and regulations of trade, and the same duties on import and export, as settled in England when the Union commences, to take place in the United Kingdom.)

ARTICLE VII

(The same duties of Excise settled in England when the Union commences, to take place in the United Kingdom.)

ARTICLE VIII

(Regulation of the Salt Duties.)

ARTICLE IX

(When the sum of £1,997,763 8s. 4½d. is enacted by the Parliament of Great Britain, under the head of land-tax, Scotland to be charged by the same Act with £48,000 free of all charges, and to be raised in Scotland as the cess now is, but subject also to regulations by the Parliament of Great Britain.)

ARTICLES X. XI. XII. XIII

(These shall not extend to Scotland :

The duties on stamped paper, vellum, and parchment, now in force in England :

the duties in England on windows and lights which determine August 1, 1710 :

the duties in England on coals, culm, and cinders which determine Sept. 30, 1710 :

the duties payable on malt in England which determine June 24, 1707.)

ARTICLE XIV

That the Kingdom of Scotland be not charged with any other Duties laid on by the Parliament of England before the Union except those consented to in this Treaty in regard it is agreed that all necessary provision shall be made by the Parliament of Scotland for the public charge and service

of that Kingdom for the year One thousand seven hundred and seven. Provided nevertheless that if the Parliament of England shall think fit to lay any further Impositions by way of Customs or such Excises, with which by virtue of the Treaty Scotland is to be charged equally with England, in such case Scotland shall be liable to the same Customs and Excises and have an Equivalent to be settled by the Parliament of Great Britain; . . . And seeing it cannot be supposed that the Parliament of Great Britain will ever lay any sort of burthens upon the United Kingdom but what they shall find of necessity at that time for the preservation and good of the whole and with due regard to the circumstances and abilities of every part of the United Kingdom; therefore it is agreed, That there be no further exemption insisted upon for any part of the United Kingdom, but that the consideration of any exemptions beyond what are already agreed on in this Treaty, shall be left to the determination of the Parliament of Great Britain.

ARTICLE XV

[That as Scotland will be liable to several duties of customs and excise applicable to the payment of the debts of England contracted before the Union, it shall have an Equivalent for what its inhabitants shall be so charged towards payments of the said debts of England in manner following: the sum of £398,085, 10s. to be granted to her

Majesty by the Parliament of England, being an equivalent for such duties of customs and excise as Scotland may be charged with, applicable to the payment of the debts of England according to the proportion which the present computed Customs of Scotland, £30,000, do bear to the Customs of England, £1,341,559; and the computed duties of Excise in Scotland £33,500, bear to those in England £947,602; and this granted sum shall be due from the time of the Union. And since after the Union Scotland will be liable to the same Customs and Duties on imports and exports and to the same Duties of Excise as England, and as the increase of these duties above their present estimate will be considerable; an equivalent to be given to Scotland for such part of the duties of Customs and Excise as shall be applied towards payment of the debts of England, and, generally, an equivalent for such duties as Scotland is to pay by reason of the Union; —That out of the sum of £398,085, 10s. to be granted for such equivalent, the public debt of Scotland be paid and also the capital stock of the African and Indian Company with five per cent. per annum:—The said Company to be dissolved and to cease from the time the Act shall pass in England for raising the above Equivalent: the surplus after paying the debts of Scotland, capital of the said Company, and the increase of Customs and Excise above their present value during the said seven years with the Equivalent that shall become due, to be

applied as a consideration for the losses private persons may sustain by reducing the coin of Scotland to the standard of England, and afterwards to the encouragement of fisheries and manufactures :—Commissioners to be empowered by her Majesty to manage such Equivalent, with powers to call for, receive, and dispose of this sum, and inspect the collectors' books of revenues, who are to give them abbreviates of the produce ; these Commissioners are to have their office in Scotland, their books to be open to all the subjects in that realm, and themselves to be responsible to the Parliament of Great Britain.]

ARTICLE XVI

That from and after the Union the Coin shall be of the same standard and value throughout the United Kingdom, and a Mint shall be continued in Scotland under the same rules as the Mint in England, . . . subject to such regulations and alterations as her Majesty, her Heirs or Successors or the Parliament of Great Britain shall think fit.

ARTICLE XVII

That from and after the Union the same Weights and Measures shall be used throughout the United Kingdom, as are now established in England, and Standards of Weights and Measures shall be kept by those Burghs in Scotland to whom the Keeping the Standards of Weights and Measures now in

use there does of special right belong: all which standards shall be sent down to such respective Burghs, from the Standards kept in the Exchequer at Westminster, subject nevertheless to such regulations as the Parliament of Great Britain shall think fit.

ARTICLE XVIII

That the laws concerning regulation of Trade, Customs and such Excises to which Scotland is by virtue of this Treaty to be liable, be the same in Scotland, from and after the Union, as in England; and that all other laws in use within the Kingdom of Scotland do, after the Union and notwithstanding thereof, remain in the same force as before (except such as are contrary to, or inconsistent with, this Treaty) but alterable by the Parliament of Great Britain; with this difference betwixt the laws concerning public right, policy and civil government and those which concern private right, that the laws which concern public right, policy and civil government may be the same throughout the whole United Kingdom; but that no alteration be made in the laws which concern private right except for evident utility of the subjects within Scotland.

ARTICLE XIX

That the Court of Session or College of Justice do after the Union and notwithstanding thereof remain in all time

coming within Scotland as it is now constituted by the laws of that Kingdom, and with the same authority and privileges as before the Union, subject nevertheless to such regulations for the better administration of justice as shall be made by the Parliament of Great Britain. . . .

And that the Court of Justiciary do also, after the Union and notwithstanding thereof remain in all time coming within Scotland as it is now constituted by the laws of that Kingdom and with the same authority and privileges as before the Union, subject nevertheless to such regulations as shall be made by the Parliament of Great Britain, and without prejudice of other rights of Justiciary : And that all Admiralty jurisdictions be under the Lord High Admiral or Commissioners for the Admiralty of Great Britain for the time being, and that the Court of Admiralty now established in Scotland be continued . . . until the Parliament of Great Britain shall make such regulations and alterations as shall be judged expedient for the whole United Kingdom, so as there be always continued in Scotland a Court of Admiralty such as in England, for determination of all maritime cases relating to private rights in Scotland competent to the jurisdiction of the Admiralty Court, subject nevertheless to such regulations and alterations as shall be thought proper to be made by the Parliament of Great Britain : And that the heritable rights of Admiralty and Vice-Admiralties in Scotland be reserved to the respective

proprietors as rights of property subject nevertheless as to the manner of exercising such heritable rights to such regulations and alterations as shall be thought proper to be made by the Parliament of Great Britain; And that all other Courts now in being within the Kingdom of Scotland do remain, but subject to alterations by the Parliament of Great Britain, and that all inferior Courts within the said limits do remain subordinate, as they are now, to the supreme Courts of Justice within the same in all time coming: And that no causes in Scotland be cognisable by the Courts of Chancery, Queen's Bench, Common Pleas, or any other Court in Westminster Hall, and that the said Courts or any other of the like nature after the Union shall have no power to cognosce, review or alter the acts or sentences of the Judicatures within Scotland or stop the execution of the same: And that there be a Court of Exchequer in Scotland after the Union for deciding questions concerning the revenues of Customs and Excise there, having the same power and authority in such cases as the Court of Exchequer has in England, . . . and that the Court of Exchequer that now is in Scotland do remain until a new Court of Exchequer be settled by the Parliament of Great Britain in Scotland after the Union: And that after the Union the Queen's Majesty and her royal successors may continue a Privy Council in Scotland for preserving of public

peace and order until the Parliament of Great Britain shall think fit to alter it or establish any other effectual method for that end.¹

ARTICLE XX

That all heritable Offices, Superiorities, heritable Jurisdictions, offices for life and Jurisdictions for life be reserved to the owners thereof as rights of property in the same manner as they are now enjoyed by the Laws of Scotland, notwithstanding this treaty.²

¹ 6 *Anne*, c. 40 (1707)

An Act for rendering the union of the two kingdoms more entire and complete.

Whereas by her Majesty's great wisdom and goodness the union of the two kingdoms hath been happily effected, and the whole island is thereby subject to one sovereignty and represented by one Parliament : To the end, therefore, that the said union may be rendered more complete and entire, be it enacted . . . that from and after the first day of May (1708) the Queen's Majesty, her heirs and successors shall have but one privy council in and for the kingdom of Great Britain to be sworn to her Majesty, her heirs, and successors as Sovereigns of Great Britain, and such privy council shall have the same powers and authorities as the privy council of England lawfully had used and exercised at the time of the Union and none other.

² 20 *George II.* c. 43 (1747)

An Act for taking away and abolishing the Heritable Jurisdictions in that part of Great Britain called Scotland ; and for making satisfaction to the Proprietors thereof ; and for restoring such Jurisdictions to the Crown ; and for making more effectual provision for the administration of justice throughout that part of the United Kingdom, by the King's Courts and Judges there ; and for obliging all persons acting as Procurators, Writers or

ARTICLE XXI

That the rights and privileges of the Royal Burghs in Scotland as they now are, do remain entire after the Union and notwithstanding thereof.

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ARTICLE XXII

[Sixteen peers of Scotland to sit and vote in the House of Lords, and forty-five

Agents in the Law in Scotland to take the Oaths ; and for rendering the Union of the two Kingdoms more complete.

I. . . . all heritable jurisdictions of justiciary, and all regalities and heritable bailleries, and all heritable constabularies, other than the office of high constable of Scotland, and all stewartries . . . and all sheriffships . . . belonging unto or possessed or claimed by any subject . . . and all jurisdictions, powers, authorities, and privileges thereunto appurtenant . . . shall be and are hereby . . . totally dissolved and extinguished.

III. . . . all jurisdictions . . . belonging to any such justiciary etc. shall . . . be vested in and exercised by the Court of Session, Court of Justiciary at Edinburgh, the judges in the several circuits, and the Courts of the sheriffs and stewarts of shires and counties, and other of the King's Courts in Scotland respectively. . . .

IV. . . . all sheriffships of any county or shire, and all stewartries not hereby before taken away . . . and all jurisdictions . . . thereunto belonging . . . shall be and are hereby resumed and annexed to the Crown ; and that the sheriffs and stewarts of such counties . . . respectively shall from henceforth be nominated and appointed by his Majesty, his heirs and successors.

XXVI. Provided always . . . that nothing in this Act shall extend . . . to take away . . . any jurisdiction or privilege by law vested in or competent to the corporation or community of any royal borough in Scotland.

members in the House of Commons, in the Parliament of Great Britain ; and when her Majesty shall call such Parliament, and until it make further provision, a writ be issued under the Great Seal of the United Kingdom, to the Privy Council of Scotland, commanding it to cause sixteen peers to be summoned, and forty-five Commoners to be elected, in such manner as shall be settled by the Parliament of Scotland before the Union :—The names to be returned into the Court from whence the writ did issue :—If her Majesty, before the first day of May, 1707, should think it expedient, that the present Parliament of England continue for England, they shall be deemed members of the first Parliament of Great Britain and meet not less than fifty days after the date of the proclamation ; immediately after issuing of which a writ shall be directed to the Privy Council in Scotland for summoning sixteen peers and electing forty-five Commoners to represent Scotland, so that the sixteen peers being returned and the forty-five members being elected agreeably to the treaty, shall assemble in the respective Houses of the Parliament of Great Britain, and with the members for England be the first Parliament of Great Britain ; which Parliament to continue only as long as the present Parliament of England might have continued if no union had been made, unless sooner dissolved by her Majesty :—The members from both kingdoms to take the oath appointed to be taken instead of those of allegiance and

- P. 302. supremacy by Stat. 1 W. and M., c. 8, § 12,
 P. 307. and the declaration agreeably to Stat. 30
 Car. II., stat. 2, c. 1, and the oath mentioned
 in Stat. 1 Anne, c. 16, for the security of her
 Majesty's person and succession to the
 Crown, under the penalties and disabilities
 in the respective Acts contained :—The
 words *crown* and *realm* to mean the *Crown*
and Realm of Great Britain.]

ARTICLE XXIII

[The sixteen peers of Scotland shall have all the privileges of Parliament which the peers of England now have or any peers of Great Britain shall have after the Union, and particularly the right of sitting upon the trials of peers :—And all peers of Scotland and their successors shall after the Union be peers of Great Britain and have rank and procedure before all peers of Great Britain of the like Orders and Degrees created after the Union, and shall be tried as peers and shall enjoy the privileges of peers except the right and privilege of sitting in the House of Lords and particularly the right of sitting upon the trials of peers.]

ARTICLE XXIV

[One Great Seal to be for the United Kingdom of Great Britain different from the Great Seal now used in either Kingdom :—The quartering of the arms as may suit the Union to be left to her Majesty ; and in the

meantime the Great Seal of England to be used as that of the United Kingdom. The Great Seal of the United Kingdom to be put to writs for electing and summoning Parliament, to treaties with foreign princes and states, and to all public acts and orders of state which concern the United Kingdom, as the Great Seal of England is now used :—A seal, after the Union, to be kept in Scotland and used in all things relating to private rights or grants which used to pass under the Great Seal; and until such seal be appointed by her Majesty, the present Great Seal of Scotland to be used for such purposes :—The Privy Seal, Signet, Casset, Signet of the Justiciary Court, Quarter Seal and the Seals of Court in Scotland, to be continued but altered to the Union as her Majesty may think fit; and the Seals and the Keepers of them to be subject to such regulations as the Parliament of Great Britain may hereafter make.]

ARTICLE XXV

1. That all laws and statutes in either Kingdom so far as they are contrary to or inconsistent with the terms of these Articles or any of them shall from and after the Union cease and become void and shall be so declared to be by the respective Parliaments of the said Kingdoms.

2. And the tenor of the aforesaid Act for securing the Protestant Religion and Presby

terian Church governments within the Kingdom of Scotland is as follows.

Our Sovereign Lady and the Estates of Parliament considering that by the late Act of Parliament for a Treaty with England for an Union of both Kingdoms it is provided that the Commissioners for that Treaty should not treat of or concerning any alteration of the worship, discipline and government of the Church of this Kingdom as now by law established ; which treaty being now reported to the Parliament, and it being reasonable and necessary that the true Protestant Religion as presently professed within this Kingdom with the worship, discipline and government of this Church should be effectually and unalterably secured ; therefore her Majesty, with advice and consent of the said Estates of Parliament, doth hereby establish and confirm the said true Protestant Religion and the worship, discipline and government of this Church, to continue without any alteration to the people of this land in all succeeding generations ; and more especially her Majesty with advice and consent aforesaid, ratifies, approves and for ever confirms the fifth Act of the first Parliament of King William and Queen Mary, intituled, *Act ratifying the Confession of Faith and settling Presbyterian Church government*, with all other Acts of Parliament relating thereto, in prosecution of the Declaration of the Estates of this Kingdom, containing the Claim of Right, bearing date the eleventh of April one thousand six hundred and

eighty-nine ; and her Majesty with advice and consent aforesaid, expressly provides and declares that the aforesaid true Protestant Religion contained in the above mentioned Confession of Faith with the form and purity of worship presently in use within this Church, and its Presbyterian Church government and discipline (that is to say) the government of the Church by Kirk Sessions, Presbyteries, Provincial Synods and General Assemblies, all established by the foresaid Acts of Parliament pursuant to the Claim of Right, shall remain and continue unalterable, and that the said Presbyterian Government shall be the only Government of the Church within the Kingdom of Scotland.

3. [For the further security of the Protestant Religion so established, the Universities and Colleges of Saint Andrews, Glasgow, Aberdeen and Edinburgh as now established by Law, shall continue for ever ; and in all time coming no official in University, College or School shall bear office but such as shall acknowledge the civil government as Acts of Parliament prescribe, and such as on admission shall subscribe to the foresaid Confession of Faith and promise to conform to the worship and discipline of the established Church.]

4. [None of the subjects of this Kingdom shall be liable to any oath, test or subscription inconsistent with the Presbyterian Church government, and the successor of the present

sovereign shall, in all time coming, on his or her accession, swear to maintain the said settlement of religion.]

5. And it is hereby statute and ordained that this Act of Parliament, with the establishment therein contained shall be held and observed in all time coming as a fundamental and essential condition of any Treaty or Union to be concluded betwixt the two Kingdoms without any alteration thereof or derogation thereto in any sort for ever : As also that this Act of Parliament and settlement therein contained shall be insert and repeated in any Act of Parliament that shall pass for agreeing and concluding the foresaid Treaty or Union betwixt the two Kingdoms and that the same shall be therein expressly declared to be a fundamental and essential condition of the said Treaty or Union in all time coming ; which Articles of Union and Act immediately above written his Majesty with advice and consent aforesaid statutes, enacts and ordains to be and continue in all time coming the sure and perpetual foundation of a complete and entire union of the two kingdoms of Scotland and England under the express condition and provision that this approbation and ratification of the foresaid Articles and Act shall be no ways binding on this Kingdom until the said Atticles and Act be ratified, approved and confirmed by her Majesty with and by the authority of the Parliament of England as

they are now agreed to, approved and confirmed by her Majesty with and by the authority of the Parliament of Scotland, declaring nevertheless that the Parliament of England may provide for the security of the Church of England as they think expedient, to take place within the bounds of the said Kingdom of England, and not derogating from the security above provided for establishing of the Church of Scotland within the bounds of this Kingdom, as also the said Parliament of England may extend the additions and other provisions contained in the Articles of Union, as above insert, in favour of the subjects of Scotland, to and in favour of the subjects of England ; which shall not suspend or derogate from the force and effect of this present ratification, in the Parliament of Scotland.

6. And lastly, her Majesty enacts and declares that all laws and statutes in this Kingdom, so far as they are contrary to or inconsistent with the terms of these Articles, as above mentioned, shall from and after the Union cease and become void.

7. . . . "Whereas it is reasonable and necessary that the true Protestant Religion professed and established by law in the Church of England and the doctrine, worship, discipline and government thereof should be effectually and unalterably secured : Be it enacted by the Queen's Most Excellent Majesty, by and with the advice

Recitation of Act
for securing the
Church of Eng-
land as by law
established
(6 Anne, c. 8).

and consent of the Lords Spiritual and Temporal and the Commons in this present Parliament assembled and by authority of the same, that an Act made in the thirteenth year of the reign of Queen Elizabeth of famous memory, intituled, *An Act for the Ministers of the Church to be of sound religion*, and also another Act made in the thirteenth year of the reign of the late King Charles the Second, intituled, *An Act for the Uniformity of the public prayers and administration of sacraments and other rites and ceremonies, and for establishing the form of making, ordaining and consecrating bishops, priests and deacons in the Church of England* (other than such clauses in the said Acts or either of them as have been repealed or altered by any subsequent Act or Acts of Parliament) and all and singular other Acts of Parliament now in force for the establishment and preservation of the Church of England and the doctrine, worship, discipline and government thereof, shall remain and be in full force for ever."

8. Every succeeding Sovereign of Great Britain at his or her coronation shall "take and subscribe an oath to maintain and preserve inviolably the said settlement of the Church of England, and the doctrine, worship, discipline, and government thereof as by Law established within the Kingdoms of England and Ireland, the dominion of Wales and town of Berwick-upon-Tweed, and the territories thereunto belonging."

9. And be it further enacted by the authority aforesaid, that this Act and all and every the matters and things therein contained, be and shall for ever be holden and adjudged to be a fundamental and essential part of any Treaty of Union to be concluded between the said two Kingdoms, and also that this Act shall be inserted in express terms in any Act of Parliament which shall be made for settling and ratifying any such Treaty of Union, and shall be therein declared to be an essential and fundamental part thereof.

10. May it therefore please your Most Excellent Majesty that it may be enacted ; and be it enacted etc. that all and every the said Articles of Union . . . and also the said Act of Parliament of Scotland for establishing the Protestant Religion and Presbyterian Church government within that Kingdom . . . shall be, and the said Articles and Act are hereby for ever ratified, approved and confirmed.

11. [The Act for securing the Church of England as by law established and the Act of Parliament of Scotland intituled Act for securing the Protestant Religion and Presbyterian Church government are essential and fundamental parts of the Articles of Union. The Articles of Union, confirmed by the two Acts just enumerated, are ordained to be and continue in all times coming the complete Union of the two Kingdoms of England and Scotland.]

12. [The sixteen peers shall be named by the peers of Scotland out of their own number by open election and plurality of voices of the peers present and of the proxies for such as shall be absent, the said proxies being peers and producing a mandate in writing duly signed before witnesses, and the proxy being qualified according to law. Of the forty-five representatives of Scotland in the House of Commons, thirty shall be chosen by the shires or stewartries, and fifteen by the royal boroughs, as follows, viz. :— One for every shire and stewartry excepting (three pairs of shires which are each to choose in turn) : and the fifteen representatives for the royal burghs shall be chosen as follows, viz., the town of Edinburgh shall send one member, but each of the other burghs shall elect a Commissioner in the same manner as they are now used to elect Commissioners to the Parliament of Scotland, and these shall be divided into fourteen districts, and one member shall be elected for each district by the Commissioners for the burghs within that district. None shall be capable to elect or be elected but such as are twenty-one years of age complete and Protestant, or such as are now capable by the law of this Kingdom to elect or be elected as Commissioners for shires or burghs to the Parliament of Scotland.]

13. [The Privy Council of Scotland, acting under a writ issued to them under the Great Seal of the United Kingdom, shall require

the peers to assemble at such time and place within Scotland as the Crown appoints, to elect the sixteen Peers, and the Lord Clerk Register or two of the Clerks of Session shall attend, administer the oaths, take the votes and make the return to the Clerk of the Privy Council of Scotland: And the Privy Council shall require the freeholders to meet at the head burgh of their several shires to elect their commissioners, and the clerks of the meetings shall send the names of the persons elected to the Clerk of the Privy Council, and the royal burghs shall send their elected Commissioners to the burghs appointed for their meeting within the district, and the common clerk of the burgh where they meet shall send the names of the persons elected to the Clerk of the Privy Council, who shall return all the names of the elected to the Court from whence the writ did issue.]

THE UNION OF GREAT BRITAIN AND IRELAND

Poynings' Law (10 Henry VII. c. 4) (1495)

*An Act that no Parliament be holden in this
Land until the Acts be certified into England*

ITEM, at the request of the commons of the land of Ireland, be it ordained, enacted and established, that at the next Parliament that there shall be holden by the King's commandment and licence, wherein amongst other, the King's grace entendeth to have a general resumption of his whole revenues sith the last day of the reign of King Edward the Second, no Parliament be holden hereafter in the said land but at such season as the King's lieutenant and counsaile there first do certifie the King, under the great seal of that land, the causes and considerations,

and all such acts as them seemeth should pass in the same Parliament, and such causes, considerations and acts affirmed by the King and his counsail to be good and expedient for that land, and his licence thereupon, as well in affirmation of the said causes and acts, as to summon the said Parliament under his great seal of England had and obtained: that done, a Parliament to be had and holden after the form and effect afore rehearsed: and if any Parliament be holden in that land hereafter, contrary to the form and provision aforesaid, it is deemed void and of none effect in law.

*Explanation of Poynings' Act by 3 and 4
Philip and Mary, c. 4 (1557)*

That no Parliament be summoned or holden within this realm of Ireland until such time as the lieutenant, lord deputie, lord justice, lords justices, chiefe governour or governours or any of them and the counsail of this said realm of Ireland for the time being, shall have certified the King and Queen's Majesties, her heyres and successours, under the great seale of this said realme of Ireland, the considerations, causes and articles of such acts, provisions and ordinances as by them shall be then thought meet and necessary to be enacted and passed here by Parliament, and shall have also received again their Majesties' answer, under their great seale of England, declaring their pleasure, eyther for the passing of the said acts, provisions and ordinances, in such

form and tenour as they shall be sent into England, or else for the change or alterations of them or any part of the same.

. . . after such return made and after licence and authority to summon a Parliament within the said realm of Ireland . . . and not before, the same lieutenant etc. shall and may summon and hold a Parliament within this realm of Ireland, for passing and agreeing upon such acts, and no other, as shall be so returned under the said great seale of England.

Act 6 George I. c. 6 (1719)

An Act for the better securing the dependency of the Kingdom of Ireland upon the Crown of Great Britain.

Whereas the House of Lords of Ireland have of late, against law, assumed to themselves a power and jurisdiction to examine, correct and amend the judgments and decrees of the Courts of Justice in the Kingdom of Ireland: Therefore for the better securing of the dependency of Ireland upon the Crown of Great Britain, may it please your most Excellent Majesty that it may be declared, and be it declared by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority

of the same, That the said Kingdom of Ireland hath been, is and of right ought to be subordinate unto and dependent upon the Imperial Crown of Great Britain, as being inseparably united and annexed thereunto: and that the King's Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons of Great Britain in Parliament assembled, had, hath and of right ought to have full power and authority to make laws and statutes of sufficient force and validity to bind the Kingdom and people of Ireland.

And be it further declared and enacted by the authority aforesaid, That the House of Lords of Ireland have not, nor of right ought to have any jurisdiction to judge of, affirm or reverse any judgment, sentence or decree, given or made in any court within the said Kingdom, and that all proceedings before the said House of Lords upon any such judgment, sentence or decree, are and are hereby declared to be utterly null and void to all intents and purposes whatsoever.

Act 21 and 22 George III. c. 47 (1782)

An Act to regulate the manner of passing bills and to prevent delays in summoning of Parliaments.

Whereas it is expedient to regulate the manner of passing bills in this Kingdom,

be it enacted etc., That the lord lieutenant or other chief governor or governors and council of this Kingdom for the time being, do and shall certify all such bills, and none other, as both houses of Parliament shall judge expedient to be enacted in this Kingdom, to his Majesty, his heirs and successors, under the great seal of this Kingdom, without addition, diminution or alteration.

II. And be it further enacted . . . That all such bills as shall be so certified to his Majesty, his heirs and successors, under the great seal of this Kingdom and returned into the same under the great seal of Great Britain, without addition, diminution or alteration and none other shall pass in the Parliament of this Kingdom; any former law, statute or usage to the contrary thereof in any wise notwithstanding.

III. And be it further enacted, That no bill shall be certified into Great Britain, as a cause or consideration for holding a Parliament in this Kingdom, but that Parliaments may be holden in this Kingdom, although no such bill shall have been certified previous to the meeting thereof.

IV. Provided always, That no Parliament shall be holden in this Kingdom until a licence for that purpose shall be first had ~~and~~ obtained from his Majesty, his heirs and successors, under the great seal of Great Britain.

Act 39 and 40 George III. c. 67 (1800)

An Act for the Union of Great Britain and Ireland.

Whereas in pursuance of his Majesty's most gracious recommendation to the two houses of Parliament in Great Britain and Ireland respectively, to consider of such measures as might best tend to strengthen and consolidate the connexion between the two Kingdoms, the two houses of the Parliament of Great Britain, and the two houses of the Parliament of Ireland have severally agreed and resolved, that in order to promote and secure the essential interests of Great Britain and Ireland, and to consolidate the strength, power and resources of the British Empire, it will be advisable to concur in such measures as may best tend to unite the two Kingdoms of Great Britain and Ireland into one Kingdom in such manner and on such terms and conditions as may be established by the Acts of the respective Parliaments of Great Britain and Ireland.

And whereas, in furtherance of the said resolution, both houses of the said two Parliaments respectively have likewise agreed upon certain articles for effectuating and establishing the said purposes, in the tenor following :

ARTICLE FIRST

. . . that the said Kingdoms of Great Britain and Ireland shall, upon the first day of January . . . one thousand eight hundred and one, and for ever after be united into one Kingdom by the name of "the United Kingdom of Great Britain and Ireland," and that the royal style and titles appertaining to the Imperial Crown of the said United Kingdom and its dependencies, and also the ensigns, armorial flags and banners thereof, shall be such as his Majesty by his royal proclamation under the great seal of the United Kingdom shall be pleased to appoint.

ARTICLE SECOND

. . . that the succession to the imperial crown of the said United Kingdom and of the dominions thereunto belonging, shall continue limited and settled in the same manner as the succession to the imperial crown of the said Kingdoms of Great Britain and Ireland now stands limited and settled, according to the existing laws and to the terms of union between England and Scotland.

ARTICLE THIRD

. . . that the said United Kingdom be represented in one and the same Parliament, to be stiled, "The Parliament of the United Kingdom of Great Britain and Ireland."

ARTICLE FOURTH

. . . that four lords spiritual of Ireland, by rotation of sessions, and twenty-eight lords temporal of Ireland, elected for life by the peers of Ireland, shall be the number to sit and vote on the part of Ireland in the House of Lords of the Parliament of the United Kingdom, and one hundred Commoners (two for each county of Ireland, two for the city of Dublin, two for the city of Cork, one for the University of Trinity College, and one for each of the thirty-one most considerable cities, towns and boroughs) be the number to sit and vote on the part of Ireland in the House of Commons of the Parliament of the United Kingdom.

* * * * *

That all questions touching the rotation or election of lords spiritual or temporal of Ireland to sit in the Parliament of the United Kingdom, shall be decided by the House of Lords thereof; . . .

That any person holding any peerage of Ireland now subsisting or hereafter to be created, shall not thereby be disqualified from being elected to serve, if he shall so think fit, or from serving or continuing to serve, if he shall so think fit, for any county, city or borough of Great Britain, in the House of Commons of the United Kingdom, unless he shall have been previously elected as above to sit in the House of

Lords of the United Kingdom ; but that so long as such peer of Ireland shall so continue to be a member of the House of Commons, he shall not be entitled to the privilege of peerage nor be capable of being elected to serve as a peer on the part of Ireland, or of voting at any such election, and that he shall be liable to be sued, indicted, proceeded against and tried as a commoner, for any offence with which he may be charged.

That it shall be lawful for his Majesty, his heirs and successors, to create peers of that part of the United Kingdom called Ireland, and to make promotions in the peerage thereof, after the Union, provided that no new creation of any such peers shall take place after the Union until three of the peerages of Ireland which shall have been existing at the time of the Union, shall have become extinct, and upon such extinction of three peerages, that it shall be lawful for his Majesty, his heirs and successors, to create one peer of that part of the United Kingdom called Ireland, and in like manner so often as three peerages of that part of the United Kingdom called Ireland, shall become extinct . . . ; and if it shall happen that the peers of that part of the United Kingdom called Ireland, shall by extinction of peerages, or otherwise, be reduced to the number of one hundred, exclusive of all such peers of . . . Ireland as shall hold any peerage of Great Britain, subsisting at the time of the Union, or of the United Kingdom

created since the Union, by which such peers shall be entitled to an hereditary seat in the House of Lords of the United Kingdom, then and in that case it shall and may be lawful for his Majesty, his heirs and successors, to create one peer of . . . Ireland, as often as any one of such hundred peerages shall fail by extinction, or as often as any one peer of . . . Ireland shall become entitled by descent or creation to an hereditary seat in the House of Lords of the United Kingdom, it being the true intent and meaning of this article, that at all times after the Union, it shall and may be lawful for his Majesty, his heirs and successors to keep up the peerage of . . . Ireland to the number of one hundred, over and above the number of such of the said peers as shall be entitled by descent or creation to an hereditary seat in the House of Lords of the United Kingdom.

* * * * *

That all questions touching the election of members to sit on the part of Ireland in the House of Commons of the United Kingdom, shall be heard and decided in the same manner as questions touching such elections in Great Britain now are, or at any time hereafter shall by law be heard and decided, subject nevertheless to such particular regulations in respect of Ireland, as from local circumstances the Parliament of the United Kingdom may from time to time deem expedient.

Repealed 21 and
22 Vict. c. 26.
(1858)

That the qualifications in respect of property of the members elected on the part of Ireland to sit in the House of Commons of the United Kingdom, shall be respectively the same as are now provided by law in the case of elections for counties and cities and boroughs respectively in that part of Great Britain called England unless any other provision shall hereafter be made in that respect by Act of Parliament of the United Kingdom.

That when his Majesty, his heirs and successors, shall declare his, her or their pleasure for holding the first or any subsequent Parliament of the United Kingdom, a proclamation shall issue under the great seal of the United Kingdom to cause the lords spiritual and temporal and commons, who are to serve in the Parliament thereof on the part of Ireland, to be returned in such manner as by any Act of the present session of the Parliament of Ireland shall be provided, and that the lords spiritual and temporal and commons of Great Britain shall, together with the lords spiritual and temporal and commons so returned as afore-said on the part of Ireland, constitute the two Houses of the Parliament of the United Kingdom.

* * * *

(Until an Act shall have passed in the United Parliament providing in what cases persons holding offices of profit under the Crown in Ireland shall be incapable of sitting in the House of Commons of the

United Kingdom, no more than twenty such members shall sit therein, and if there are more than that number, the seats or places of such as shall have last accepted such offices shall be vacated, so as to reduce them to twenty. The Lords and Commons of the United Parliament shall take the Oaths etc. as enjoined to be taken by the Lords and Commons of the British Parliament.)

That the lords of Parliament on the part of Ireland, in the House of Lords of the United Kingdom, shall at all times have the same privileges of Parliament which shall belong to the lords of Parliament on the part of Great Britain, and the lords spiritual and temporal respectively on the part of Ireland, shall at all times have the same rights in respect of their sitting and voting upon the trial of peers as the lords spiritual and temporal respectively on the part of Great Britain; and that all lords spiritual of Ireland shall have rank and precedence next and immediately after the lords spiritual of the same rank and degree of Great Britain, and shall enjoy all privileges as fully as the lords spiritual of Great Britain do now or may hereafter enjoy the same—the right and privilege of sitting in the House of Lords and the privileges depending thereon, and particularly the right of sitting on the trial of peers, excepted; and that the persons holding any temporal peerages of Ireland, existing at the time of the Union, shall, from and after the Union, have rank and precedence next and immediately after the

persons holding peerages of the like orders and degrees in Great Britain, subsisting at the time of the Union ; and that all peerages of Ireland created after the Union shall have rank and precedency with the peerages of the United Kingdom so created according to the dates of their creations ; and that all peerages, both of Great Britain and Ireland, now subsisting or hereafter to be created, shall in other respects from the date of the Union be considered as peerages of the United Kingdom, and that the peers of Ireland shall, as peers of the United Kingdom, be sued and tried as peers, except as aforesaid, and shall enjoy all privileges of peers as fully as the peers of Great Britain : the right and privilege of sitting in the House of Lords and the privileges depending thereon, and the right of sitting on the trial of peers, only excepted.

ARTICLE FIFTH

. . . that the Churches of England and Ireland, as now by law established, be united into one protestant, episcopal Church, to be called "The United Church of England and Ireland" ; and that the doctrine, worship, discipline and government of the said United Church shall be and shall remain in force foræver, as the same are now by law established for the Church of England ; and that the continuance and preservation of the said United Church as the established Church of England and Ireland shall be

deemed and taken to be an essential and fundamental part of the Union ; and that in like manner the doctrine, worship, discipline and government of the Church of Scotland shall remain and be preserved as the same are now established by law and by the Acts for the Union of the two Kingdoms of England and Scotland.

Act 32 and 33 Vict. c. 42 (1869)

An Act to put an end to the Establishment of the Church of Ireland and to make provision in respect of the Temporalities thereof, and in respect of the Royal College of Maynooth.

Whereas it is expedient that the union created by Act of Parliament between the Churches of England and Ireland, as by law established, should be dissolved, and that the Church of Ireland, as so separated, should cease to be established by law, and that, after satisfying, so far as possible, upon principles of equality as between the several religious denominations in Ireland, all just and equitable claims, the property of the said Church of Ireland, or the proceeds thereof, should be applied in such manner as Parliament shall hereafter direct :

And whereas her Majesty has been graciously pleased to signify that she has placed at the disposal of Parliament her interest in the several archbishoprics, bishoprics, benefices, cathedral preferments, and other ecclesiastical dignities and offices in Ireland :

Be it therefore enacted etc. as follows :

2. On and after the first day of January one thousand eight hundred and seventy one the said union created by Act of Parliament between the Churches of England and Ireland shall be dissolved, and the said Church of Ireland . . . shall cease to be established by law.

13. On the said first of January one thousand eight hundred and seventy one every ecclesiastical corporation

in Ireland, whether sole or aggregate, and every cathedral corporation in Ireland, as defined by this Act, shall be dissolved, and on and after that day no archbishop or bishop of the said Church shall be summoned to or be qualified to sit in the House of Lords as such ; provided that every present archbishop, bishop, dean and archdeacon of the said Church shall during his life enjoy the same title and precedence as if this Act had not passed.

71. Nothing herein contained shall affect the Act of the session of the thirty ninth and fortieth years of the reign of King George the Third, chapter sixty seven, and intituled "An Act for the Union of Great Britain and Ireland," or an Act of the Irish Parliament passed in the fortieth year of the reign of King George the Third, and also intituled "An Act for the Union of Great Britain and Ireland," or anything done thereby, except in so far as relates to the union of the Churches of England and Ireland, and except as expressly herein-before provided.

ARTICLE SIXTH

. . . that his Majesty's subjects of Great Britain and Ireland shall, from and after the first day of January, one thousand eight hundred and one, be entitled to the same privileges, and be on the same footing as to encouragements and bounties on the like articles, being the growth, produce or manufacture of either country respectively, and generally in respect of trade and navigation in all parts and places in the United Kingdom and its dependencies ; and that in all treaties made by his Majesty, his heirs and successors, with any foreign power, his Majesty's subjects of Ireland shall have the same privileges, and be on the same footing as his Majesty's subjects of Great Britain.

[All prohibitions and bounties on the export of articles, the produce or manufac-

ture of either country, to the other shall ease. *All articles the produce of either country shall be imported free from duty other than the countervailing duties enumerated in an annexed schedule.]

ARTICLE SEVENTH

. . . that the charge arising from the payment of the interest on the sinking fund for the reduction of the principal of the debt incurred in either Kingdom before the Union shall continue to be separately defrayed by Great Britain and Ireland respectively, except as hereinafter provided.

(For twenty years the contributions towards expenditure of Great Britain and Ireland shall be as 15 to 2, after which the proportions may be altered. The revenues of Ireland shall be a consolidated fund applicable in the first instance to interest of the debt of Ireland and to the sinking fund for the reduction of the debt, and the remainder to defraying Ireland's proportion of the expenditure of the United Kingdom. No article in Ireland shall hereafter be more highly taxed than in England. Provision is made for the application of any surplus revenue over and above the three items just enumerated to certain specified purposes. All monies raised after the Union shall be a joint debt. Under certain circumstances the imperial Parliament may declare that future expenses may be defrayed by equal taxes on the same articles in each

country, subject only to such particular exemptions in Ireland or Scotland as may seem temporarily expedient. After such declaration there will be no specific proportion of contribution of the two countries towards the future expenditure of the United Kingdom but the interest and charges remaining on account of any part of the separate debt with which either country shall be chargeable shall be defrayed by separate taxes in each country. Premiums for agriculture, manufactures and pious purposes shall be continued for 20 years in Ireland. All public revenue from the territorial dependencies of the United Kingdom and applied to its general expenditure shall be so applied in the proportions of the respective contributions of the two countries.)

ARTICLE EIGHTH

. . . that all laws in force at the time of the Union and all the courts of civil and ecclesiastical jurisdiction within the respective Kingdoms, shall remain as now by law established within the same, subject only to such alterations and regulations from time to time as circumstances may appear to the Parliament of the United Kingdom to require: provided that all writs of error and appeals depending at the time of the Union or hereafter to be brought, and which might now be finally decided by the House of Lords of either Kingdom, shall from and after the Union be finally decided by the

House of Lords of the United Kingdom, and provided that from and after the Union there shall remain in Ireland an instance Court of Admiralty for the determination of causes civil and maritime only; and that the appeal from sentences of the said court shall be to his Majesty's delegates in his Court of Chancery in that part of the United Kingdom called Ireland; and that all laws at present in force in either Kingdom, which shall be contrary to any of the provisions which may be enacted by any Act for carrying these articles into effect, be from and after the Union repealed.

And whereas the said articles having, by address of the respective Houses of Parliament in Great Britain and Ireland, been humbly laid before his Majesty, his Majesty has been graciously pleased to approve the same; and to recommend it to his two Houses of Parliament in Great Britain and Ireland to consider of such measures as may be necessary for giving effect to the said articles: in order, therefore, to give full effect and validity to the same, be it enacted etc. that the said foregoing recited articles, each and every one of them, according to the true import and tenor thereof, be ratified, confirmed and approved, and be and they are hereby declared to be the articles of the Union of Great Britain and Ireland, and the same shall be in force and have effect for ever, from the first day of January, which shall be in the year of our Lord one

thousand eight hundred and one ; provided that before that period an Act shall have been passed by the Parliament of Ireland for carrying into effect in the like manner the said foregoing recited articles.

An Act to regulate the mode by which the Lords Spiritual and Temporal and the Commons to serve in the Parliament of the United Kingdom on the part of Ireland, shall be summoned and returned to the said Parliament (40 Geo.III.c 29)

2. [The four spiritual lords shall be returned in the following way—one of the four archbishops and three of the eighteen bishops shall sit in the House of Lords in each session, right of sitting being regulated as between the archbishops by a rotation among the archiepiscopal sees from session to session, and similarly as between the bishops, according to a rotation of sees laid down by the Act.] If, however, any lord spiritual is a temporal peer of the United Kingdom or of Ireland who is chosen as a representative of the lords temporal, then the rotation of representation of the spiritual lords shall proceed to the next temporal lord in each order of the hierarchy. The twenty eight temporal lords shall be chosen by all the temporal peers of Ireland and shall sit for life, vacancies being filled up by election, in the following way—all the peers who have taken their seats in the House of Lords of Ireland and shall have taken the requisite oaths and signed the requisite declaration, shall meet and shall deliver either by himself or by his proxy to the clerk of the crown a list of twenty eight of the temporal peers of Ireland and the clerks shall add up the lists and make the return to the House of Lords. In case of equality of votes the clerk of the Parliament shall select by lot

the one who shall sit. When a seat is vacated, the Chancellor of the United Kingdom, on due notification, shall send a writ to the Chancellor of Ireland who shall cause the clerk of the crown in Ireland to issue writs to all temporal peers whose claim to vote has been admitted by the House of Lords, and with the writs shall go forms of return which shall be filled up by each peer.

Of the one hundred Commoners to sit on the part of Ireland in the United Parliament, sixty-four shall be chosen for the counties and thirty-six for certain cities and boroughs, two each for Dublin and Cork and one each for all the rest. All other towns shall cease to send members. In the first Parliament, in the case of those boroughs which sent two members to the Irish Parliament, a choice should be made by lot between the sitting members. If one retires before the lots are drawn, the other shall be returned. When a new Parliament is summoned or when a vacancy occurs, the Chancellor of the United Kingdom shall cause writs to be issued and these writs and the returns, being returned into the crown office of Ireland, shall be transmitted to the crown office of England and be certified to the House of Commons, copies being preserved in the crown office of Ireland.]

3. . . . that the great seal of Ireland may, if his Majesty shall so think fit, after the Union be used in like manner as before the Union . . . and that his Majesty may, so

long as he shall think fit, continue the Privy Council of Ireland to be his Privy Council for that part of the United Kingdom called Ireland.

GLOSSARY

- Abbatia.** An abbey.
- Advocatio.** The advowson ; the right of presenting to an ecclesiastical benefice.
- AFTER-gild.** Reiterated payment of value.
- Afforestare.** To afforest, *i.e.*, to render subject to the Forest law.
- Aldermannus.** An alderman.
- Amerciamentum.** An amercement ; the sum of money exacted by the king before granting pardon to one convicted of an offence.
- Appellum.** An appeal in the feudal sense of an accusation—usually followed by trial by combat.
- Assidere.** To assess.
- Assisa.** (1) A session of a court ; (2) an Ordinance issued by royal authority after consultation with the magnates ; (3) a remedy provided by a royal writ for those kept out or dispossessed of their freehold rights.
- Attachiare.** To attach ; to take possession of, in order to execute a legal decree or writ.
- Attaintus.** One attainted or convicted of treason.
- Attornatus.** An attorney.
- Aubergel.** A hauberk or breastplate.
- Auxilium.** An aid—usually a sum of money to help the king, or other feudal lord, out of a special difficulty.
- Ballistarius.** A crossbow-man.
- Bancus.** A Bench, denoting a Court in permanent session.
- Bellum, or Duellem.** Trial by combat according to a set traditional form.
- Bernet.** Incendiarism, setting a house on fire.
- Blada.** Corn.

Boo-land. Private property in land acquired by a definite charter or grant ; privileged land as opposed to folc-land.

Borchbreche. Breach of bail.

Borh. Surety ; bail ; warrantor ; guarantee of protection.

Boscus. A wood.

Bot. Amendment ; penalty ; compensation for injury done.

Botteleria. The office of a butler.

Breve. A writ ; an order issued in writing from the Royal Chancery.

Bridtol. *Perhaps* = pontage (*q.v.*).

Brigbot. The obligation to repair bridges.

Burgagium. A burgage ; the tenure which conferred the rights of a burgess.

Burgbot. The obligation to repair the fortifications.

Burwaremot. The moot of a community of citizens, the tribunal of a town.

Calumnia. A challenge ; a claim.

Canonicus. A canon ; one living according to a rule of life.

Capella. A chapel.

Capellet. A head-piece, usually of metal.

Carectarius. A cart-horse.

Careta. A cart.

Caruca, Carruca. (1) A plough ; (2) a measure of arable land.

Cariagium = Carucagium. A tax of so much on each caruca.

Castellanus. A castellan ; the warden of a castle.

Ceap-gild. Money paid in compensation ; value of a matter determined by a lawsuit.

Centenarius. A hundredman : the administrator or judicial officer of a hundred.

Cervisia. Beer.

Childrife. A penalty paid to a lord for the misconduct of his female villein.

Churchbot. The obligation to repair the church.

Cofaltatus. A county or shire, an administrative division of varying size and origin.

Compotus. An account or accounting, *e.g.*, by the sheriff ; an Account Roll of a Manor.

Contenementum. A feudal holding ; *see* tenementum.

Costera. The coast.

Cotsetus. A cottar ; a peasant with a small holding.

Crucesignatus. One who has taken the vow of Crusade.

Cultellus. A little knife.

Custodia. Wardship ; guardianship.

Danegildum. Danegeld ; a tax of so much on each hide of land, originally raised to buy off the attacks of the Danes.

Deafforestare. To disafforest (*see* Afforestare).

Decania. A division of the hundred ; a tything (*see* Tethinga).

Defensum. A prohibition ; an enclosure.

Defendere. To answer for ; to be responsible for.

Disrationaire. To clear oneself from accusation ; to disprove ; to make good a legal claim.

Dissaisina. A disseisin or dispossession ; an ejectment (*see* Saisina).

Disseisitus. One who has been disseised or dispossessed.

Districtus. Made subject to legal distress or the execution of a judgment.

Dominicum. Demesne, that part of the manor which the lord did not let out to free tenants.

Doom. A judgment ; a law.

Eberemorth. Open, undeniable murder.

Eleemosyna. Alms ; a gift to the Church or the poor.

Elongatus. Removed to a distance.

Escaeta, Excaeta. An escheat or reversion of property on failure of heirs—one of the feudal incidents.

Escaeter. An escheator.

Essonium. A formal excuse for non-appearance in court.

Estuverium. Estover (literally, stuff)—an allowance, either generally, of sufficient food or money to live on, or particularly, of sufficient material for any special purpose, *e.g.*, of wood for repairs, &c.

Ewagium. Probably a corruption of *aquagium*, a toll on goods conveyed by water.

Excommunicatus. One who has been excommunicated or cut off from the sacraments of the Church.

- Feodum.** A fee or fief ; a feudal holding.
- Feodifarma.** A fee farm ; an estate held in fee simple or absolute freehold ownership.
- Feoffator.** A feoffor ; one who grants a fief, a feudal lord.
- Feohwite.** The fine for false coining.
- Felonia.** A felony ; a violation of the oath of a vassal.
- Feorm-fultum.** The right of the king and his officers on duty to sustenance from the inhabitants of the district where they happened to be.
- Feos-bot.** A fine, originally estimated in cattle (feoh).
- Ferdingus.** A peasant who holds a fourth part or quarter of a virgate of land.
- Fidelitas.** Fealty ; the obligation of a vassal or a subject to be faithful and true to his superior.
- Fight-wite, Fyht-wite.** A fine for fighting until blood is shed.
- Flemen-fyrma, Flymena-fyrmth.** The harbouring or protection of an outlaw.
- Flyma.** A fugitive from justice ; an outlaw.
- Folgarius.** A follower.
- Folkesmote.** The moot, assembly, law-court of the folk or people.
- Forath.** A preliminary oath ; the oath of accusation ; the opening oath of the plaintiff.
- Forstal, Forestal.** A forcible obstruction to the execution of a law ; a blockading of the high road.
- Francus-plegius.** Frank-pledge (*see* Frith-borg).
- Francus-tenens.** A free tenant.
- Frith.** Peace ; security guaranteed by the State.
- Frith-borg.** A voluntary group of mutually responsible persons (*see* Tethinga).
- Frith-bot.** A fine for breach of the peace.
- Frith-less.** An outlaw.
- Frum-tihhle.** An accusation for the first time.
- Fugatio.** Expulsion ; ejection (of a feudal tenant from his holding).
- Ful.** Foul : "laid in the ful" = reckoned as an evildoer.
- Furragium.** Food procured by forage ; provender.
- Fyrdfare.** The duty of serving in the field with the fyrd or local militia.
- Fyrthinga, or Fyrdung.** The right of summoning the national fyrd : the fine for neglecting to appear when so summoned.

Fyrd-wite. The fine for neglecting the obligation of service with the fyrd.

Gesithcund. A man in the position of a gesith or personal follower.

Gleresgleve, or Gersuma. A lump sum paid down for any appointment or favour.

Gildhalla. The hall or meeting-place of a local voluntary association.

Grith-brice, Grith-bryce. A breach of the grith or special protection which is guaranteed by a king or a Church to their immediate dependents.

Ham-socna. A fine for attacking a man in his own house.

Hansa. A trade guild.

Haracium. A stud of horses.

Haubio. A hauberk, a shirt of mail.

Healsfang. A tenth part of the Wergild.

Heorth-faest, Hurthefest. One who is settled in a house ; one who lives in his own house.

Herbagium. Herbage, the right of pasture.

Herioth, Heriot. The military and other equipment which goes back to the lord on the death of a vassal.

Heved. A headman ; a leader.

Hida. A hide of land ; (1) a measure varying in size with the nature of the soil, and representing in theory the amount which could be cultivated by one plough ; (2) a unit of assessment = 120 acres.

Hlafordswike. Treason to a lord.

Homagium. Homage ; the obligation of a vassal to his lord.

Hospitari. To dwell ; to have a domicile.

Hospitium. Board and lodging.

Housel. The Sacrament.

Hundredus. A Hundred, an administrative division of the shire.

Husbreche. The breaking open a house.

Hustenge, Hustings. The Court of Justice, e.g., belonging to the town of London.

Inbreviare. To enter on a writ ; to register ; to abridge.

Indentura. An indenture.

Infangtheof. The right of jurisdiction and its profits in the case of a criminal caught in the act within the jurisdiction, even if he were the man of another lord.

Inquisitio. An inquest or inquiry.

Jocalis. Jewels.

Juisa. The ordeal of hot iron.

Jurator. A jurymen, one sworn to speak the truth according to his knowledge or information.

Justitiarius. A justiciar, justice or judge.

Kydellus. A weir.

Lād. Proof of purgation (by means of Oath-helpers).

Lah-slit. A fine for breach of the law.

Landrica. One who is lord of the land or of the district, and grantee of the immunity or privilege which gives exemption from the interference of outside officials.

Lardarius. A larderer ; a clerk of the kitchen.

Legalis homo. A man whom the law recognises as eligible for certain duties, *i.e.*, for jury service.

Lestagium, Lastagium. A toll levied on merchandise.

Librata. Land worth a pound a year.

Ligantia. Allegiance—the obligation of a vassal to his lord, or a subject to the king.

Ligius. A liege-man—one who owes allegiance. Used also of the lord to whom allegiance is owed.

Lot, Loth. Taxes and obligations on inhabitants of a borough. *Generally in the phrase* scot and lot.

Marcus. A weight of gold or silver for the reckoning of payments.

Manerium. A manor ; the unit of economic life under feudalism.

Manung. An administrative district, perhaps answering to the hundred.

Marescallus. A marshal ; the official charge with the ordering of the feudal array.

Maritagium, Maritatio. The dowry given to the bride by her family.

Medial thane. A class below the king's thegns.

Mescheninga. A mistake made in repeating the formula by which a lawsuit was begun, only to be amended by a fine to the owner of the jurisdiction.

- Mercandisa.** Merchandise.
- Mesuagium.** A messuage ; a dwelling-house.
- Misericordia.** Mercy ; the absolute authority of the king as the fountain of justice to dispose of the life and the goods of a condemned person.
- Mobilia.** Moveable goods, personal as opposed to real property.
- Monachus.** A monk.
- Monetagium.** Mintage, the right of coinage ; a sum paid for right of coining.
- Mort.** Secret murder.
- Mund-brice, Mund-bryce.** A violation of the mund or special protection accorded, in some cases, by the king or a great lord ; the fine exacted for its reparation.
- Murdrum.** The murder fine ; the penalty paid to the king by the neighbourhood where a slain man of non-English (*i.e.*, of French) race has been found, and his slayer remains undetected and uncaught.
- Namium.** A pledge ; anything taken in security pending settlement of a dispute.
- Nativus.** A bondman, a serf (*see* Villanus).
- Octabas.** The octave : a period of eight days, *i.e.*, a week and a day : generally used of the period following a Church festival.
- Oferhymes.** A fine for deliberate neglect of an authoritative order.
- Parcella.** A parcel (or small piece) of land.
- Pascha.** Easter.
- Passagium.** A toll levied upon men and goods.
- Perpetcare.** To pay in full.
- Perquisitio.** A purchase.
- Placitum.** A plea or lawsuit ; a court of justice.
- Pontagium.** A payment levied for repair of bridges ; a toll for passing over a bridge.
- Populus minutus.** The lesser people.
- Portsocha.** The jurisdiction of a town or borough.
- Praefectus.** A bailiff or steward ; *perhaps synonymous with* praepositus.
- Praepositus.** A reeve or local official of shire, hundred, vill, or a steward of a private lord.

Praepositura. The sphere of a reeve's office.

Profrum. A proffer ; time at which a proffer *di* payment should be made by sheriffs and others.

Purpunctus. A doublet ; *French*, pourpoint.

Quindena. A period of fifteen days, *i.e.*, a fortnight.

Recognitio. An inquiry made through sworn neighbours supposed to be witnesses, into the truth of claims or statements by a plaintiff (*see* *Inquisitio*).

Reditus, Redditus. A rent or return, *e.g.*, made to the lord for the use of his land.

Relevatio, Relevium. The payment to the lord of a feudal fief by the heir of the late tenant on entry to his predecessor's holding.

Renegatus. A renegade, a fugitive.

Resealsire. To restore to possession (*see* *Saisina*).

Retornatio. A return, *e.g.*, to a writ.

Retta, Recta. Right ; jurisdiction.

Returnus. Return or profit ; also return of writs.

Riparius. One who dwells on the bank of a river, or on the sea-shore.

Rusticus. A villan, an unfree tenant, the descendant of the A.S. *ceorl*.

Sac. " Sac and soc " is a phrase denoting the grant of a private jurisdiction together with its profits (*see* *Socen*).

Saisina. Seisin, legal possession (properly restricted to land, not personalty).

Scaccarium. Exchequer.

Scot, Schot. *See* *Lot*.

Scothale, Scot-ale. A feast for which contributions are levied, *e.g.*, by the forest officials—often made a means of oppression.

Scutagium. Scutage ; a money payment of so much per knight's fee, which the king might take in lieu of actual military service.

Seisitus. Seised or possessed (*see* *Saisina*).

Septimana. A week, a period of seven days.

Sergeanteria, Sergeantia. Sergeanty, tenure by sergeanty.

Socagium. Socage ; a free, non-military tenure.

Socen, Socna. The jurisdiction of a private landowner which exempts his tenants from attendance at the local courts.

Stallagium. Stallage, payment for a licence to erect stalls at a fair or market.

Stipendiarius. A paid magistrate.

Streth-breche. The tearing up of the highroad.

Summarius. A pack-horse.

Tallia, Tallia. A tally (e.g., the wooden records of sums paid kept at the Exchequer).

Tallagium, Talliagium. Tallage, a tax leviable by the lord at discretion on villans or unfree tenants and in boroughs.

Tenementum. A tenement or holding; land held in accordance with feudal law.

Tethinga. A tithing; a local organisation for maintaining order in the country.

Theof-gyld. Payment in atonement for a theft.

Thelonium, Theolonium. Toll.

Theow. A serf; one born unfree.

Tiht-bysig. Of evil reputation.

Tol. See Thelonium.

Tungrevius. The reeve of a tun, toun, town or vill; sometimes called *præfectus* or *prepositus de villa*.

Turnus. The turn or tourn of a sheriff; his monthly court held in each hundred.

Tyen-manna-tale. The name given in the north of England to voluntary organisations for maintaining order (see *Frith-borg*).

Utlagia. Outlawry.

Utlagus. An outlaw.

Vadium, Vadimonium. A surety or pledge.

Valvus. Waif or vagabond.

Valentia. Value.

Vavassor. A feudal subtenant.

Vicarius. An official of Frankish origin ranking below an Earl and above a hundredman; a representative or steward of a lord.

Vicedominus. An official below an Earl and above a hundredman; perhaps superior to the Vicarius or a synonym for him; a representative or steward of a lord.

Villanus. A villan or unfree tenant, representing after the Norman Conquest the A.S. *ceorl*.

Villenagium. Villenage or the tenure of an unfree tenant.

Visnetum, Visinetum. The neighbourhood.

Visus. View or inspection, *e.g.*, of frankpledge.

Wainnagium, Wannagium. A waggon.

Wambais. A gambeson, a thick jacket of leather or padded cloth.

Wapentaccus. A wapentake; the administrative division in the north and east of England, the parts settled by the Danes, and corresponding to the hundred of the south.

Warda. A quarter or division of a fourth part for administrative purposes of a borough.

Wardemotum. The court of justice of a ward in a borough.

Warantizare. To warrant; to secure; to promise protection.

Warennna. A warren; a place reserved for lesser game—contrasted with the royal forests.

Warennarius. A warrener; one who has charge of a warren.

Warnistura. A garrison.

Warranty. Guarantee, security.

Wed. A pledge or promise to appear (*see* *Vadium*).

Wer, Were, or Wergeld. The estimation of a man's social position or personal value in terms of money.

Wic. A town or village; perhaps synonymous with -chester or -burh.

Wic-reeve. The bailiff or steward of a wic.

Wite. The fine paid by an offender to the lord of the jurisdiction within which the offence was committed.

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